Supreme Court, U. S.
DEC 18 1974
MICHAEL RODAK, JR., CLERK

APPENDIX

In the Supreme Court of the United States

No. 73-1531

ALBERT JOHNSON, ET AL., PETITIONERS,

v.

STATE OF MISSISSIPPI, ET AL.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

PETITION FOR CERTIORARI FILED APRIL 12, 1974
CERTIORARI GRANTED OCTOBER 21, 1974

INDEX

	Orig. Page No.	App. Pages
Docket Entries		1
Affidavits of Chief Marion R. Brown	12	3
Amended Petition For Removal ..	35	18
Transcript Of Proceedings	1	28
Bennie Young	37	31
Johnny Ferguson	59	48
Eddie Thomas	86	69
Charles Chiplin	110	89
Marion R. Brown	132	107
Order To Remand	55	137
Correspondence With Judges Of The Court Of Appeals		138
Indictment		142

DOCKET ENTRIES

IN THE UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION

ALBERT JOHNSON, REVEREND EDDIE L. MCBRIDE, CHARLES CHIPLIN, DAVID MCPHELP, ROBERT WHITAKER LEE, JOHN FERGUSON, MICHAEL SIMS, TERRY ROBINSON, ROBERT WHITTAKER, JOHN DILLARD, ODELL DIXON, ISSAC REMBRANT, BETTY WASHINGTON, KATIE MAE CLARK LAWRENCE, CONNIE WILLIAMS, WILLIE GREEN, VICTOR PARSON, BENNIE YOUNG, BEN PERKINS, DANIEL WALTON, WALLACE WILLIAMS, MARY HELEN LEE, FANNIE BROWN, MILDRED C. COSEY, ALBERT ROSS, ALORA LARKINS, WILLIAM ROOKS, JOSEPH WRIGHT, MATTIE MAE JONES, LOUISE THOMAS, ROSA LEE SHIELDS, MAUDE WINFIELD, MARY F. ROBB, J. B. EDWARDS, JR., RAY M. COSBY, LARRY SIMS, BERTHA WILLIAMS, DELLORA BOSLY, WILLIE MAE FERGUSON, FRANKIE YOUNG, RUDY L. SMITH, JEANNETTE CANDA, WILLIE MAE JONES, ABRAHAM GREEN, JR., ROBERT M. JOHNSON, ALBERT JOHNSON, TOMMY WHITAKER, JOHNNIE WILLIAMS, RUFUS PRICE, AND JESSIE MAE GREEN,

Petitioners,

versus CR.A. 72 W-7(C)

STATE OF MISSISSIPPI; HONORABLE JAMES NICHOLS; COUNTY JUDGE, WARREN COUNTY,

MISSISSIPPI: HONORABLE OSCAR LABARRE, JUDGE OF THE CITY OF VICKSBURG, MISSISSIPPI: PAUL BARNETT, SHERIFF OF WARREN COUNTY; MARION R. BROWN, CHIEF OF POLICE OF THE CITY OF VICKSBURG, MISSISSIPPI,
Respondents.

DATE	PROCEEDINGS
5-25-72	Petition for Removal, with Verificate of James E. Winfield, Sworn Verificate of Albert Johnson, and Eddie L. McBridge, et al., copies of affidavits, filed with Notice of Removal.
5-25-72	ANSWER of State of Mississippi, et al to Petition for Removal, with Certificate of Service, filed.
5-25-72	Respondents' MOTION TO REMAND, with Certificate of Service and Notice of Motion for hearing on Friday, June 2, 1972, at 9:00 A.M. at Jackson, before Judge Harold Cox, filed.
5-25-72	Copy of Affidavit of George Chaney, County Prosecuting Attorney, filed.
6- 1-72	AMENDED Petition for Removal with Verificate, filed in duplicate.
6- 5-72	EXHIBITS: D-1 and D-2, filed. (see envelope)
12-29-72	OPINION . . . "A judgment accordingly may be entered . . .", filed. Copy of above opinion mailed attorneys Alexander, Ellis and Chaney. Certified copy of opinion mailed to County Court and Police Court by certified mail, return receipt requested.
1- 4-73	ORDER TO REMAND: Ordered that case of Albert Johnson be remanded to County Court of Warren County, Miss. and all other cases included remanded to the Municipal Court of Vicksburg, Miss.; further ordered that Clerk furnish Clerk of said State Courts with attested or certified copy of this order. Petitioner assessed with cost, filed and entered O.B. 1973, Page 1. Certified copy of order mailed Clerks of State Courts certified mail, return receipts requested, and to attorneys of record by regular mail.
1-10-73	Return receipts on above mailing attached to Order to Remand.
2- 1-73	Petitioner's Notice of Appeal from remand order of this Court entered 1-4-73, to the Fifth Circuit Court of Appeals, filed.
2- 1-73	Petitioner's Motion for Stay of Remand Order pending appeal, with Certificate and notice of hearing at Jackson, Miss. on February 9, 1973, at 9:00 A.M., filed.
2- 2-73	Certified copy of Notice of Appeal and docket sheets and copy of Motion mailed Fifth Circuit and copy of Notice of Appeal mailed attorneys for respondents.
2- 1-73	Appeal Bond in the sum of $250.00 paid into registry.

---

[12] ARREST AFFIDAVITS

THE STATE OF MISSISSIPPI,
City of Vicksburg

Personally appeared before me, the undersigned Police Justice and Ex-Officio Justice of the Peace of the City of Vicksburg, CHIEF MARION R. BROWN, CHIEF OF

POLICE, ON INFORMATION AND BELIEF who being duly sworn, deposeth and says that E. L. McBride, Charles Chiplin, David McPhelp, Robert Whittaker Lee, John Ferguson, Albert Johnson, Michael Sims, Terry Robinson, Robert Whittaker, John Dillard, Odell Dixon, Issac Rembrant, Betty Washington, Katie Mae Clark Lawrence, Connie Williams and Willie Green, Victor Parson.

On or before the 1st day of May, A.D., 1972 within the Corporate Limits of said City with the felonious intent on their part, and each of them to commit acts injurious to trade or commerce among the public and did wilfully, unlawfully, and feloniously conspire, combine confederate and agree among themselves and each of them with the other, and did enter into an unlawful conspiracy, plan and design among themselves, and each with the other, to unlawfully and feloniously bring about a boycott of merchants and businesses and pursuant of the said unlawful conspiracy did then and there promote, encourage and enforce acts injurious to trade or commerce among the public.

This in the County of Warren and State of Mississippi, and against the peace and dignity of the State of Mississippi the affiant verily believes.

Sworn to and subscribed before me this 2nd day of May, 1972

/s/ MARION R. BROWN

/s/ OSCAR LABARRE
Police Justice and
Ex-Officio Justice of
the Peace

[13] THE STATE OF MISSISSIPPI
CITY OF VICKSBURG

Personally appeared before me, the undersigned Police Justice and Ex-Officio Justice of the Peace of the City of Vicksburg, CHIEF MARION R. BROWN, CHIEF OF POLICE, ON INFORMATION AND BELIEF who being duly sworn, deposeth and says that Bennie Young, Ben Perkins, Daniel Walton, Wallace Williams, Mary Helen Lee, Fannie Brown, Mildred C. Cosey, Charles Chiplin, Victor Lee Parson, Odell Dixon on or about the 13th day of May A.D., 1972 within the Corporate Limits of said City with the felonious intent on the part of said defendants and each of them to commit acts injurious to trade or commerce among the public did wilfully, unlawfully, and feloniously conspire, combine, confederate and agree among themselves, and each of them with the other, and did enter into an unlawful conspiracy, plan and design among themselves, and each with the other, to unlawfully and feloniously promote a boycott of merchants and businessess and pursuant of the said unlawful conspiracy did then and there promote, encourage and enforce acts injurious to trade or commerce among the public.

This in the County of Warren and State of Mississippi, and against the peace and dignity of the State of Mississippi the affiant verily believes.

Sworn to and subscribed before me this 13th day of May.

/s/MARION R. BROWN

/s/OSCAR LABARRE
Police Justice and
Ex-Officio Justice of the Peace

[14] THE STATE OF MISSISSIPPI
CITY OF VICKSBURG

Personally appeared before me, the undersigned Police Justice and Ex-Officio Justice of the Peace of the City of Vicksburg, CHIEF MARION R. BROWN, CHIEF OF POLICE, ON INFORMATION AND BELIEF who being duly sworn, deposeth and says that Herma Barnes, Robert Wells, and Nellie Mae Green on or about the 14th day of May A.D., 1972 within the Corporate Limits of said City with the felonious intent on the part of said defendants and each of them to commit acts injurious to trade or commerce among the public did wilfully, unlawfully, and feloniously conspire, combine, confederate and agree among themselves, and each of them with the other, and did enter into an unlawful conspiracy, plan and design among themselves, and each with the other, to unlawfully and feloniously promote a boycott of merchants and businesses and pursuant of the said unlawful conspiracy did then and there promote, encourage and enforce acts injurious to trade or commerce among the public.

This in the County of Warren and State of Mississippi, and against the peace and dignity of the State of Mississippi the affiant verily believes.

Sworn to and subscribed before me this 14th day of May.

/s/ MARION R. BROWN
/s/ OSCAR LABARRE
Police Justice and Ex-Officio
Justice of the Peace

[15] THE STATE OF MISSISSIPPI
CITY OF VICKSBURG

Personally appeared before me, the undersigned Police Justice and Ex-Officio Justice of the Peace of the City of Vicksburg, CHIEF MARION R. BROWN, CHIEF OF POLICE, ON INFORMATION AND BELIEF who being duly sworn, deposeth and says that Albert Ross and Alora Larkins on or about the 14th day of May A.D., 1972 within the Corporate Limits of said City with the felonious intent on the part of said defendants and each of them to commit acts injurious to trade or commerce among the public did wilfully, unlawfully and feloniously conspire, combine, confederate and agree among themselves, and each of them with the other, and did enter into an unlawful conspiracy, plan and design among themselves, and each with the other, to unlawfully and feloniously promote a boycott of merchants and businesses and pursuant of the said unlawful conspiracy did then and there promote, encourage and enforce acts injurious to trade or commerce among the public.

This in the County of Warren and State of Mississippi, and against the peace and dignity of the State of Mississippi the affiant verily believes.

Sworn to and subscribed before me this 14th day of May.

/s/ MARION R. BROWN
/s/ OSCAR LABARRE
Police Justice and Ex-Officio
Justice of the Peace

[16] THE STATE OF MISSISSIPPI
CITY OF VICKSBURG

Personally appeared before me, the undersigned Police Justice and Ex-Officio Justice of the Peace of the City of Vicksburg, CHIEF MARION R. BROWN, CHIEF OF POLICE, ON INFORMATION AND BELIEF who being duly sworn, deposeth and says that William Rooks, Joseph Wright, Mattie Mae Jones, Louise Thomas, Rosa Lee Shields, Maude Winfield, Mary F. Robb, on or about the 13th day of May A.D., 1972 within the Corporate Limits of said City with the felonious intent on the part of said defendants and each of them to commit acts injurious to trade or commerce among the public did wilfully, unlawfully, and feloniously conspire, combine, confederate and agree among themselves, and each of them with the other, and did enter into an unlawful conspiracy, plan and design among themselves, and each with the other, to unlawfully and feloniously promote a boycott of merchants and businesses and pursuant of the said unlawful conspiracy did then and there promote, encourage and enforce acts injurious to trade or commerce among the public.

This in the County of Warren and State of Mississippi, and against the peace and dignity of the State of Mississippi the affiant verily believes.

Sworn to and subscribed before me this 13th day of May.

/s/ MARION R. BROWN
/s/ OSCAR LABARRE
Police Justice and Ex-Officio
Justice of the Peace

[17] THE STATE OF MISSISSIPPI
CITY OF VICKSBURG

Personally appeared before me, the undersigned Police Justice and Ex-Officio Justice of the Peace of the City of Vicksburg, CHIEF MARION R. BROWN, CHIEF OF POLICE, ON INFORMATION AND BELIEF who being duly sworn, deposeth and says that J. B. Edwards, Jr., Ray M. Cosby, and Larry Sims on or about the 13th day of May A.D., 1972 within the Corporate Limits of said City with the felonious intent on the part of said defendants and each of them to commit acts injurious to trade or commerce among the public did wilfully, unlawfully, and feloniously conspire, combine, confederate and agree among themselves, and each of them with the other, and did enter into an unlawful conspiracy, plan and design among themselves, and each with the other, to unlawfully and feloniously promote a boycott of merchants and businesses and pursuant of the said unlawful conspiracy did then and there promote, encourage and enforce acts injurious to trade or commerce among the public.

This in the County of Warren and State of Mississippi, and against the peace and dignity of the State of Mississippi the affiant verily believes.

Sworn to and subscribed before me this 13th day of May.

/s/ MARION R. BROWN
/s/ OSCAR LABARRE
Police Justice and Ex-Officio
Justice of the Peace

[18] THE STATE OF MISSISSIPPI
CITY OF VICKSBURG

Personally appeared before me, the undersigned Police Justice and Ex-Officio Justice of the Peace of the City of Vicksburg, CHIEF MARION R. BROWN, CHIEF OF POLICE, ON INFORMATION AND BELIEF who being duly sworn, deposeth and says that Bertha Williams, Dellora Bosly, and Willie Mae Ferguson on or about the 14th day of May A.D., 1972 within the Corporate Limits of said City with the felonious intent on the part of said defendants and each of them to commit acts injurious to trade or commerce among the public did wilfully, unlawfully, and feloniously conspire, combine, confederate and agree among themselves, and each of them with the other, and did enter into and unlawful conspiracy, plan and design among themselves, and each with the other, to unlawfully and feloniously promote a boycott of merchants and businesses and pursuant of the said unlawful conspiracy did then and there promote, encourage and enforce acts injurious to trade or commerce among the public.

This in the County of Warren and State of Mississippi, and against the peace and dignity of the State of Mississippi the affiant verily believes.

Sworn to and subscribed before me this 14th day of May.

/s/ MARION R. BROWN
/s/ OSCAR LABARRE
Police Justice and Ex-Officio
Justice of the Peace

[19] THE STATE OF MISSISSIPPI,
CITY OF VICKSBURG

Personally appeared before me, the undersigned Police Justice and Ex-Officio Justice of the Peace of the City of Vicksburg, CHIEF MARION R. BROWN, CHIEF OF POLICE, ON INFORMATION AND BELIEF who being duly sworn, deposeth and says that Frankie Young and Eddie L. McBride on or about the 13th day of May A.D., 1972 within the Corporate Limits of said City with the felonious intent on the part of said defendants and each of them to commit acts injurious to trade or commerce among the public did wilfully, unlawfully, and feloniously conspire, combine, confederate and agree among themselves, and each of them with the other, and did enter into and unlawful conspiracy, plan and design among themselves, and each with the other, to unlawfully and feloniously promote a boycott of merchants and businesses and pursuant of the said unlawful conspiracy did then and there promote, encourage and enforce acts injurious to trade or commerce among the public.

This in the County of Warren and State of Mississippi, and against the peace and dignity of the State of Mississippi the affiant verily believes.

Sworn to and subscribed before me this 13 day of May.

/s/ MARION R. BROWN
/s/ OSCAR LABARRE
Police Justice and Ex-Officio
Justice of the Peace.

[20] THE STATE OF MISSISSIPPI
CITY OF VICKSBURG

Personally appeared before me, the undersigned Police Justice and Ex-Officio Justice of the Peace of the City of Vicksburg, CHIEF MARION R. BROWN, CHIEF OF POLICE, ON INFORMATION AND BELIEF who being duly sworn, deposeth and says that Rudy L. Smith, Jennette Canda, and Willie Mae Jones on or about the 14th day of May A.D., 1972 within the Corporate Limits of said City with the felonious intent on the part of said defendants and each of them to commit acts injurious to trade or commerce among the public did wilfully, unlawfully, and feloniously conspire, combine, confederate and agree among themselves, and each of them with the other, and did enter into an unlawful conspiracy, plan and design among themselves, and each with the other, to unlawfully and feloniously promote a boycott of merchants and businesses and pursuant of the said unlawful conspiracy did then and there promote, encourage and enforce acts injurious to trade or commerce among the public.

This in the County of Warren and State of Mississippi, and against the peace and dignity of the State of Mississippi the affiant verily believes.

Sworn to and subscribed before me this 14th day of May.

/s/ MARION R. BROWN

/s/ OSCAR LABARRE
Police Justice and
Ex-Officio Justice of the Peace

[21] THE STATE OF MISSISSIPPI
CITY OF VICKSBURG

Personally appeared before me, the undersigned Police Justice and Ex-Officio Justice of the Peace of the City of Vicksburg, CHIEF MARION R. BROWN, CHIEF OF POLICE, ON INFORMATION AND BELIEF who being duly sworn, deposeth and says that Abraham Green, Jr., Robert M. Johnson, Albert Johnson on or about the 13th day of May A.D., 1972 within the Corporate Limits of said City with the felonious intent on the part of said defendants and each of them to commit acts injurious to trade or commerce among the public did wilfully, unlawfully, and feloniously conspire, combine, confederate and agree among themselves, and each of them with the other, and did enter into an unlawful conspiracy, plan and design among themselves, and each with the other, to unlawfully and feloniously promote a boycott of merchants and businesses and pursuant of the said unlawful conspiracy did then and there promote, encourage and enforce acts injurious to trade or commerce among the public.

This in the County of Warren and State of Mississippi, and against the peace and dignity of the State of Mississippi the affiant verily believes.

Sworn to and subscribed before me this 13th day of May.

/s/ MARION R. BROWN

/s/ OSCAR LABARRE
Police Justice and
Ex-Officio Justice of the Peace

[22] THE STATE OF MISSISSIPPI
CITY OF VICKSBURG

Personally appeared before me, the undersigned Police Justice and Ex-Officio Justice of the Peace of the City of Vicksburg, CHIEF MARION R. BROWN, CHIEF OF POLICE, ON INFORMATION AND BELIEF who being duly sworn, deposeth and says that Tommy Whitaker and Eddie L. McBride on or about the 13th day of May A.D., 1972 within the Corporate Limits of said City with the felonious intent on the part of said defendants and each of them to commit acts injurious to trade or commerce among the public did wilfully, unlawfully, and feloniously conspire, combine, confederate and agree among themselves, and each of them with the other, and did enter into an unlawful conspiracy, plan and design among themselves, and each with the other, to unlawfully and feloniously promote a boycott of merchants and businesses and pursuant of the said unlawful conspiracy did then and there promote, encourage and enforce acts injurious to trade or commerce among the public.

This in the County of Warren and State of Mississippi, and against the peace and dignity of the State of Mississippi the affiant verily believes.

Sworn to and subscribed before me this 13th day of May.

/s/ MARION R. BROWN

/s/ OSCAR LABARRE
Police Justice and
Ex-Officio Justice of the Peace

[23] THE STATE OF MISSISSIPPI
CITY OF VICKSBURG

Personally appeared before me, the undersigned Police Justice and Ex-Officio Justice of the Peace of the City of Vicksburg, CHIEF MARION R. BROWN, CHIEF OF POLICE, ON INFORMATION AND BELIEF who being duly sworn, depo eth and says that Eddie L. McBride and Charles Chiplin on or about the 13th day of May A.D., 1972 within the Corporate Limits of Said City with the felonious intent on the part of said defendants and each of them to commit acts injurious to trade or commerce among the public did wilfully, unlawfully, and feloniously conspire, combine, confederate and agree among themselves, and each of them with the other, and did enter into an unlawful conspiracy, plan and design among themselves, and each with the other, to unlawfully and feloniously promote a boycott of merchants and businesses and pursuant of the said unlawful conspiracy did then and there promote, encourage and enforce acts injurious to trade or commerce among the public.

This in the County of Warren and State of Mississippi, and against the peace and dignity of the State of Mississippi the affiant verily believes.

Sworn to and subscribed before me this 13th day of May.

/s/ MARION R. BROWN

/s/ OSCAR LABARRE
Police Justice and
Ex-Officio Justice of the Peace

[24] THE STATE OF MISSISSIPPI
CITY OF VICKSBURG

Personally appeared before me, the undersigned Police Justice and Ex-Officio Justice of the Peace of the City of Vicksburg, CHIEF MARION R. BROWN, CHIEF OF POLICE, ON INFORMATION AND BELIEF who being duly sworn, deposeth and says that Robert Whitaker Lee and Eddie L. McBride on or about the 13th day of May A.D., 1972 within the Corporate Limits of said City with the felonious intent on the part of said defendants and each of them to commit acts injurious to trade or commerce among the public did wilfully, unlawfully, and feloniously conspire, combine, confederate and agree among themselves, and each of them with the other, and did enter into an unlawful conspiracy, plan and design among themselves, and each with the other, to unlawfully and feloniously promote a boycott of merchants and businesses and pursuant of the said unlawful conspiracy did then and there promote, encourage and enforce acts injurious to trade or commerce among the public.

This in the County of Warren and State of Mississippi, and against the peace and dignity of the State of Mississippi the affiant verily believes.

Sworn to and subscribed before me this 13th day of May.

/s/ MARION R. BROWN

/s/ OSCAR LABARRE
Police Justice and
Ex-Officio Justice of the Peace

[25] THE STATE OF MISSISSIPPI
CITY OF VICKSBURG

Personally appeared before me, the undersigned Police Justice and Ex-Officio Justice of the Peace of the City of Vicksburg, CHIEF MARION R. BROWN, CHIEF OF POLICE, ON INFORMATION AND BELIEF who being duly sworn, deposeth and says that Johnnie Williams, Rufus Price, and Jessie Mae Green on or about the 14th day of May A.D., 1972 within the Corporate Limits of said City with the felonious intent on the part of said defendants and each of them to commit acts injurious to trade or commerce among the public did wilfully, unlawfully and feloniously conspire, combine, confederate and agree among themselves, and each of them with the other, and did enter into an unlawful conspiracy, plan and design among themselves, and each with the other, to unlawfully and feloniously promote a boycott of merchants and businesses and pursuant of the said unlawful conspiracy did then and there promote, encourage and enforce acts injurious to trade or commerce among the public.

This in the County of Warren and State of Mississippi, and against the peace and dignity of the State of Mississippi the affiant verily believes.

Sworn to and subscribed before me this 14th day of May.

/s/ MARION R. BROWN

/s/ OSCAR LABARRE
Police Justice and
Ex-Officio Justice of the Peace

[35] IN THE
UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION

Filed: Jun. 1, 1972

ALBERT JOHNSON, REVEREND EDDIE L. MCBRIDE, CHARLES CHIPLIN, DAVID MCPHELP, ROBERT WHITTAKER LEE, JOHN FERGUSON, MICHAEL SIMS, TERRY ROBINSON, ROBERT WHITTAKER, JOHN DILLARD, ODELL DIXON, ISSAC REMBRANT, BETTY WASHINGTON, KATIE MAE CLARK LAWRENCE, CONNIE WILLIAMS, WILLIE GREEN, VICTOR PARSON, BENNIE YOUNG, BEN PERKINS, DANIEL WALTON, WALLACE WILLIAMS, MARY HELEN LEE, FANNIE BROWN, MILDRED C. COSEY, ALBERT ROSS, ALORA LARKINS, WILLIAM ROOKS, JOSEPH WRIGHT, MATTIE MAE JONES, LOUISE THOMAS, ROSA LEE SHIELDS, MAUDE WINFIELD, MARY F. ROBB, J. B. EDWARDS, JR., RAY M. COSBY, LARRY SIMS, BERTHA WILLIAMS, DELLORA BOSLY, WILLIE MAE FERGUSON, FRANKIE YOUNG, RUDY L. SMITH, JENNETTE CANDA, WILLIE MAE JONES, ABRAHAM GREEN, JR., ROBERT M. JOHNSON, ALBERT JOHNSON, TOMMY WHITAKER, JOHNNIE WILLIAMS, RUFUS PRICE AND JESSIE MAE GREEN, ET AL,

Petitioners,

versus No. 72 W-7(c)

STATE OF MISSISSIPPI; HONORABLE JAMES NICHOLS, COUNTY JUDGE, WARREN COUNTY,

MISSISSIPPI; HONORABLE OSCAR LABARRE, JUDGE OF THE CITY OF VICKSBURG, MISSISSIPPI; PAUL BARRETT, SHERIFF OF WARREN COUNTY; MARION R. BROWN, CHIEF OF POLICE OF THE CITY OF VICKSBURG, MISSISSIPPI,

Respondents.

[36] AMENDED PETITION FOR REMOVAL

Petitioners Albert Johnson, and Rev. Eddie L. McBride, et al, respectfully petition this Court for removal of the above captioned case from the City and County Courts and all other State Courts, of Warren County, Mississippi to this Court, and in support of said petition, petitioners would show the following:

JURISDICTION

1. This action arises under 28 U.S.C., 1443 and 1446; 42 U.S.C. 1981 and 1983; 28 U.S.C. 1343, Title I of the Civil Rights Act of 1968, 18 U.S.C. 245 and the Equal Protection Clause of The Fourteenth Amendment to the United States Constitution.

PARTIES

2. As appears more fully below, this petition seeks to remove criminal prosecutions pending in Courts of Warren County, Mississippi, against forty-nine (49) defendants more specifically categorized as Petitioners Albert Johnson, Eddie L. McBride, Charles Chiplin, David McPhelp, Robert Whittaker Lee, John Ferguson, Michael Sims, Terry Robinson, Robert Whittaker, John

Dillard, Odell Dixon, Issac Rembrant, Betty Washington, Katie Mae Clark Lawrence, Connie Williams, Willie Green, Victor Parson, Bennie Young, Ben Perkins, Daniel Walton, Wallace Williams, Mary Helen Lee, Fannie Brown, Mildred C. Cosey, Albert Ross, Alora Larkins, William Rooks, Joseph Wright, Mattie Mae Jones, Louise Thomas, Rosa Lee Shields, Maude Winfield, Mary F. Robb, J. B. Edwards, Jr., Ray M. Cosby, Larry Sims, Bertha Williams, Dellora Bosly, Willie Mae Ferguson, Frankie Young, Rudy L. Smith, Jennette Canda, Willie Mae Jones, Abraham Green, Jr., Robert Johnson, Albert [37] Johnson, Tommy Whitaker, Johnnie Williams, Rufus Price, and Jessie Mae Green who were all arrested for alleged criminal violation arising out of the same transactions and occurrence, and the filing of multiple petitions would be so burdensome as to deny petitioners effective access to this Court except after onerous delay and would deny petitioners their asserted rights.

A. Petitioners are all Black Citizens of the United States, the State of Mississippi and residents of the City of Vicksburg, Mississippi.

B. Petitioners, Albert Johnson and Rev. Eddie L. McBride, are adult citizens of the United States, the State of Mississippi and residents of the City of Vicksburg, Mississippi.

C. All other petitioners are also Black residents citizens of the United States, the State of Mississippi and residents of the City of Vicksburg, Mississippi.

D. Petitioners are individually and in association, members of various organizations including the Concern-

ed Citizens dedicated to securing equal civil and legal rights for all citizens in accordance with the guarantees of the Constitution and laws of the United States and the State of Mississippi.

E. Respondent is the State of Mississippi. Acting as its agents are certain officials of the County and City of Vicksburg, Warren County, Mississippi, to-wit:

(a) The Honorable James Nickols, Judge of the County Court of Warren County, Mississippi.

(b) The Honorable Oscar LaBarre, Judge of the City Court of Vicksburg, Mississippi.

(c) Paul Barrett, Sheriff of Warren County, Mississippi.

(d) Marion R. Brown, Chief of Police of Vicksburg, Mississippi.

[38] FACTS

3. Sometime during late March, 1972 the petitioners and other citizens of Vicksburg, Mississippi, made various demands upon certain merchants and city officials in connection with certain longstanding unfair and/or unlawful practices engaged in by said merchants and city officials.

A. Some of the demands made by petitioners were as follows:

(1) creation of a civilian Police Review Board;

(2) hiring of 40% Blacks in city government at all levels:

(3) 40% Blacks in all city stores:

(4) 40% Black managers in all city stores;

(5) 40% Blacks on Urban Renewal staff at all levels;

(6) appointment of three (3) Blacks to the Vicksburg Public School Board;

(7) appointment of a majority of Blacks on the Housing Authority Board; and

(8) appointment of a majority of Blacks on the Civil Service Commission.

B. When these demands were unanswered, the petitioners and others began to peacefully and lawfully picket the business establishment of same merchants in Vicksburg, Mississippi, and began to urge the citizens of Vicksburg to boycott these business establishments. All of this picketing by the petitioners and other members of their class was done in a lawful and peaceful manner and without infringing upon the rights of any other citizen of Vicksburg, Mississippi. At no time during said picketing and boycott activities was there any threat of violence or indication of imminent [39] danger to citizens of Vicksburg, Mississippi, nor any threat of destruction of

public and private property, nor has there been any threat or indication of a threat to the public peace, health, and safety of the citizens of Vicksburg, Mississippi. At all times during this picketing the petitioners were exercising rights under the Constitution of the United States and under Federal laws providing for equal civil rights.

C. On or about May, 1972 petitioners: Eddie L. McBride, Charles Chiplin, David McPhelp, Robert Whittaker Lee, John Ferguson, Albert Johnson, Michael Sims, Terry Robinson, Robert Whittaker, John Dillard, Odell Dixon, Isaac Rembrant, Betty Washington, Katie Mae Clark Lawrence, Connie Williams, Willie Green, and Victor Parson were arrested while standing upon the public sidewalk in Vicksburg, Mississippi and charged with criminal conspiracy.

D. At the time of such arrest the petitioners in an orderly and peaceable manner were engaged in picketing and distribution of leaflets. Petitioners were subsequently freed on a $5,000.00 bond as the amount for bail. There has been no trial or prosecution pursuant to that arrest.

E. Thereafter, on or about May 13th and 14th, 1972, some 40 petitioners including: Bennie Young, Ben Perkins, Daniel Walton, Wallace Williams, Mary Helen Lee, Fannie Brown, Mildred C. Cosey, Charles Chiplin, Victor Lee Parson, Odell Dixon, Herman Barnes, Robert Wells, Nellie Mae Green, Albert Ross, Alora Larkins, William Rooks, Joseph Wright, Mattie Mae Jones, Louise Thomas, Rosa Lee Shields, Maude Winfield, Mary F. Robb, J. B. Edwards, Jr., Ray M. Cosby, Larry Sims, Bertha Williams, Dellora Bosly, Willie Mae Ferguson, Frankie Young, Eddie L. McBride, Rudy L. Smith,

Jennette Canda, Willie Mae Jones, Abraham Green, Jr., Robert M. Johnson, Albert Johnson, Tommy Whitaker, Robert Whitaker Lee, Johnnie Williams and Rufus Price.

[40] F. At the time of said arrest the petitioners in an orderly and peaceable manner were engaged in picketing and distributing leaflets.

G. Petitioners have again been released from the jail of Vicksburg on bond set at $1,000.00 for those over 60 years of age and $1,500.00 for those under 60.

H. Prior to the time of the May 13th and 14th arrests, petitioners had been approached by some members of the Merchants Association and for the first time some tentative proposals were made in regard to petitioners demand.

I. Petitioner Albert Johnson was arrested May 21, 1972 and arraigned on May 22, 1972 and trial was set for May 25, 1972 in the County Court of Warren County on a charge pursuant to Section 2384-5 of Mississippi Code 1942, recompiled as amended:

> "Threats of coercion to prevent lawful conduct of business petitioner Johnson was released on a $2,500.00 bond pending trial"

J. Upon information and belief other petitioners and members of their class will be arrested by respondents their agents and charged with violation of said statute if the aforementioned picketing activity continues.

K. Upon information and belief, the sole purposes of the respondents in enacting and enforcing the said statute was and is to intimidate, punish and harass petitioners and others of their class for exercising their rights to freedom of speech, petition and assembly, and to discourage and prevent petitioners and their class from obtaining their constitutional rights, and enjoying them equally with white citizens.

[41] *GROUNDS FOR REMOVAL*

4. The statutes under which petitioners are prosecuted (Conspiracy statutes 2056 and all other conspiracy statutes as well as 2384.5) are on their face and as applied repugnant to the Constitution of the United States of America and the Constitution of the State of Mississippi.

A. The aforesaid conduct and activity of petitioners was done in the exercise of rights guaranteed to petitioners by Title I of the Civil Rights Act of 1968, 18 U.S.C. 245.

B. The charges against petitioners, their arrest, and subsequent prosecution on those charges have no basis in fact and have been effectuated solely and exclusively for the purpose and effect of depriving petitioners of their Federally protected rights, including by force or threat of force, punishing, injuring, intimidating, and interferring, or attempting to punish, injure, intimidate, and interferring, or attempting to punish intimidate, and interfere with petitioners, and the class of persons participating in the Warren County boycott and demonstrations, for the exercise of their rights peacefully to protest discrimina-

tion and to conduct and publicize a boycott which seeks to remedy the denial of equal civil rights as described in paragraph A through K herein which activities are protected by 18 U.S.C. 245.

C. These illegal prosecutions have caused petitioners, their relatives and friends to encumber a substantial percentage of the financial resources within the Black community of Vicksburg, Mississippi in an effort to obtain Petitioners release onbond pending trial. Petitioners and others sharing similar views who but for the illegal arrests and prosecutions would take part in the protected activities described above are prevented from vindicating their Federal Constitutional and Statutory rights listed above.

[42] D. As a result of the above-stated, petitioners are denied and cannot enforce their rights asserted under 18 U.S.C. 245 in the City Police Justice Court or in the County Court of Warren County, or any other court of the State of Mississippi: any proceeding in such courts would constitute a denial of the rights and protections conferred by 18 U.S.C. 245 because that statute protects those who are arrested for exercising the rights and privileges conferred by that statute, not only from conviction in state courts, but also from prosecution in those courts.

E. By the conduct of state and county officials as set out above, petitioners are denied and continue to be denied the full and equal benefit of laws and proceedings relating to the criminal process in Warren County, as the same are enjoyed by white citizens, and were subject and continue to be subjected to unequal and racially discrim-

inatory punishment, and exactions in violation of 52 U.S.C. 1981 and 1983 and the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.

F. The deprivations of rights related above were carried out by state and county officials under color of statutes, ordinances, regulation, customs, and usages of the State of Mississippi and Warren County. As a result of such denials, petitioners are denied and cannot enforce their rights asserted under 42 U.S.C. 1981 and 1983 and the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution, because any further prosecution of proceedings under the circumstances related above in Police Justice Court or County Court of Warren County or any other courts of the State of Mississippi, would constitute a denial of the protection conferred by those statutes and constitutional provisions.

G. In as much as the proceedings sought to be removed are criminal, no bond or filing fee is required.

WHEREFORE, petitioners pray that the aforementioned criminal prosecutions be removed to this Court from the Police Justice [43] Court of Vicksburg and County Court of Warren County, Mississippi, pursuant to 28 U.S.C. 1443 and 1446, that the prosecutions be dismissed and that this Court grant such further relief as may be proper.

Respectfully submitted,
/s/ JAMES WINFIELD
JAMES WINFIELD
125 1/2 North Farish Street
Jackson, Mississippi

/s/ FIRNIST J.
ALEXANDER, JR.
FIRNIST J. ALEXANDER, JR.
1072 Lynch Street
Jackson, Mississippi

FRANK PARKER,
General Counsel
ACLU
233 North Farish Street
Jackson, Mississippi
Attorneys for Petitioners

(Verification omitted in printing.)

---

[1] UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION

(Number and Title Omitted)

Filed: Jun. 20, 1973

APPEARANCES:

HON. FIRNEST JAMES ALEXANDER;
1072 Lynch Street;
Jackson, Mississippi

HON. JAMES WINFIELD;
1072 Lynch Street;
Jackson, Mississippi
For the Plaintiffs.

HON. JOHN ELLIS;
District Attorney,
Vicksburg, Mississippi

HON. GEORGE CHANEY:
Warren County Prosecuting Attorney;
Vicksburg, Mississippi

HON. P. ROGER GOAGE;
Asst. Attorney General;
P. O. Box 220;
Jackson, Mississippi
For the Defendant

BE IT REMEMBERED that on, to-wit: Monday, June 5, 1972, the above styled and numbered cause came on for hearing before the HONORABLE WILLIAM HAROLD COX, United States District Judge for the Southern District of Mississippi, in the Jackson Division, at Jackson, Mississippi, when the following proceedings were had and entered of record.

* * * *

[8] BY THE COURT:
What statute was the indictment charging these people
[9] with violating?

BY MR. CHANEY:
There has been no indictment yet, Your Honor. There has been a preliminary charge and they are out on bond awaiting action of the grand jury in most of the cases. Now the single case, the Johnson case, is a misdemeanor, and that is now presently pending in the county court and

will be tried only in that court. They are presently charged under Section 2056 of the Mississippi Code which is a general conspiracy statute containing a number of subparagraphs. The subparagraph used in this particular instance is where it is declared to be a crime to enter into a conspiracy harmful to trade or commerce. Now this statute has been on the law books of this State, I believe, since 1906, is where it is first picked up historically in the Code. In 1968, or there about, the penalty of the statute was changed; the substance of it remained, at least insofar as this particular subparagraph was concerned, remained the same. Now there is a long line of authorities in the textbooks were statutes of a similar nature exist in most, if not all, of the other states. It has been held to be constitutional; there is nothing of a racial law of any nature; there is no federally protected right [10] as it applies to race.

* * * *

[37] BY THE COURT:
Who is your witness?

BY MR. WINFIELD:
Bennie Young.

BY THE COURT:
Is the rule invoked?

BY MR. ELLIS:
We ask that the rule be invoked, Your Honor.

(Witnesses removed from courtroom.)

BENNIE YOUNG,
called as a witness for and on behalf of Plaintiff, was sworn and testified as follows:

DIRECT EXAMINATION

[38] BY MR. WINFIELD:
Q Would you tell the court your name, please sir?
A My name is Bennie Young.
Q Mr. Young, where do you live?
A 1412 First Pea Street, Vicksburg.
Q How long have you been a resident of Vicksburg, Mr. Young?
A Since '25.
Q Will you tell the court if you are employed?
A I was employed with the U. S. Corp of Engineers 31 years.
Q You are retired now, sir?
A I am retired, about two months ago.
Q Were you arrested on or about the 13th of May?
A Yes sir, around 5:00 the 13th of May.
Q Will you tell the court what were the facts surrounding your arrest, in your own words?
A I was carrying a sign, I walked about a block and a half. They never did say I was arrested, nobody never told me I was arrested. They told me to get in the car and they took me to the police headquarters. Then they asked me was I with this group, and I stated yes; then they booked me and took me down and put me in the car and took me to jail.
Q Mr. Young, why did you picket? You did say you were [39] picketing, isn't that correct?
A That's correct.
Q Why were you picketing, sir?

A I disapproved of the activities of the law that would be carried on with black people, since I worked right at the City Hall. All through the day I could see them carrying the black people in there, one thing or another. And we don't have no black city representative, and down in the city we didn't have no black people with no jobs concerning black people's affairs. I studied over this situation, I —

BY THE COURT:

I'm not interested in whether you are guilty or not guilty, I'm going to let the county find that out. I'm interested in knowing whether or not you had some federal constitutional right violated. I just want to hear about that and nothing else.

BY MR. WINFIELD:

Q Will you address yourself to what you were doing, the reason why you were out there, and that is particular grievances you felt you had, and what was happening, what you were doing at the time you were arrested.

A If I can understand your meaning. The situation occurred with molesting this little 7 year old girl. That give me the idea I was in my rights to try to [40] do something about it, in other ways, a way of right. So I decided I would protest that type of action, so I got with the sign and walked about, 30 of us, after the rest of them were arrested in that same manner. I could go on with a number of other incidents that have happened, there are several to this case.

Q Mr. Young, what conditions were you addressing yourself to?

A I was protesting by carrying this sign of my disapproval of action that was being carried out.

Q Were there any practices in particular that you felt your picketing would affect?

A I felt like that would be with the mayor and the commissioners, because I could see them in and out of the City Hall different times of days, and it seemed like they had something they were dealing with. I thought they could do something about it if they wanted to.

Q Mr. Young, have you attended any meetings, mass meetings, where boycott or similar activity were discussed?

A Never did.

Q The question is did you attend any mass meetings?

A I attended the meetings, I don't know if you call that mass. I attended the meetings.

[41] Q While you were there, do you ever recall anyone discussing intimidating persons or coercing persons to stop them from doing business?

A The meetings where I attended we sung and prayed and read the Bible. There wasn't no discussion of intimidating anyone, there wasn't nothing said or discussed about doing anything. And it always was in what we were going to do, there was no violence, peaceful whatsoever we do. That would be discussed. We had church meetings, something I've enjoyed ever since I could remember, that's what we did.

Q Prior to your arrest, were there other persons picketing that you know of?

A There was about 30 of us.

Q I mean prior to May 13. On May 2 there were some arrests, you were not arrested on May 2?

A There was a group arrested. I wasn't in that group, I hadn't decided I would go. Well I made up my mind when the lady cursed my daughter. I decided in my mind what could I do. She came home from Jackson State that Sat-

urday and said she was going to see what she could do, and when they cursed her I decided I think I should try to see what I could do.

Q Now have you intimidated anyone, Mr. Young?

A I didn't say a word and I continually told them to [42] fall in behind me and don't say a word to nobody.

Q How were you marching or picketing?

A We were as near, I'd say about 7 or 8 feet apart, on that Saturday evening. Didn't nobody say anything. When I knew anything there were about six or seven police cars run up on the corner and started waving everybody in and taking the signs and putting them somewhere.

Q How many times did you picket?

A That was my first time.

Q That was the day before Mother's Day?

A Right. It was on the 13th.

Q You say you attended most of the meetings?

A Most of the meetings. I think I missed two nights, I was in jail then.

BY MR. WINFIELD:

No further questions.

CROSS EXAMINATION

BY MR. CHANEY:

Q I don't believe I got your name, would you repeat it?

A Bennie Young.

Q Now, Mr. Young, you say that you were employed by the city of Vicksburg?

A No sir. The Corp of Engineers.

Q I thought you said you worked around the City Hall [43] after you retired.

A No sir.

Q Did you say you had been around the City Hall a good deal?

A I have been right near at the post office, right there.

Q I see. Now you say you disapproved of the activities of the law. That you see them carrying black people in, but you don't see any white people going in?

A I didn't say, I said I see them carrying black people, I didn't say about white people.

Q You see them carrying white people also there to the city court, don't you?

A I didn't see any.

Q You didn't see any?

A I didn't see any.

Q What day were you there?

A Well I don't have that date, sir.

Q Just one day?

A No sir, I don't know how many, but I was right there. Everytime I see there was black people going in.

Q You told Mr. Winfield that you had been to some meetings. Were these the boycott meetings?

A I'm afraid I can't answer that. We went to a meeting, you can call it anything, people still say a boycott meeting, but I don't think it was a boycott meeting.

[44] Q You don't think it was a boycott meeting?

A I know it's not a boycott meeting.

Q Was a boycott talked about?

A No sir.

Q Boycott wasn't talked about?

A Wasn't talked about.

Q Do you remember the meeting in May of this year at the courthouse when there were about 1,000 people up there? Were you at that meeting?

A I was there, I don't know how many people were there.

Q There was an awful lot, wasn't there?

A Yes.

Q And the Chief of Police afforded you protection up there that day, did he not? Roped it off so that nobody could pass in the streets.

A I came in the back of the courthouse. I didn't see any ropes, I don't know where the ropes were.

Q You didn't see the policemen out there on either end of the block? They had motorcycles keeping traffic from coming through there?

A I didn't see that.

Q You didn't see any traffic come through there, did you?

A People were standing there and I didn't know what the ropes caused —

Q And you didn't know there were police around there —

[45] A Somebody said here they come to take my picture. I see two heads and they stopped. I don't know what they were there for.

Q Did they take your picture?

A They didn't take my picture, or I don't know. Somebody said they were coming, but I didn't see them take no pictures.

Q Were you engaged in the boycott?

A Engaged in the boycott?

Q Yes, sir.

A I had been attending meetings at the hall, having church meetings, and I was at that meeting at the courthouse. Was that a boycott meeting?

Q Well, you heard the boycott talked about there by

Rev. McBride, Rev. Chiplin, and a number of other things that day, didn't you?

A They called it, something, a buying campaign.

Q Selective buying campaign.

A They didn't say a boycott meeting.

Q They were trying to get the people to quit trading with the white merchants and trade only with black merchants, were they not?

A They said keep your money in your pocket, they didn't say where you trade.

Q They didn't want black people to go in the white-owned [46] stores in Vicksburg, did they?

A Well I can't say what they wanted them to do, sir.

Q Well what was the purpose in your carrying your sign?

A I was carrying my sign protesting this activity of the law with black people.

Q And who were you protesting to?

A The city.

Q To the city?

A To the city.

Q To the mayor?

A The mayor of the city is the way I understand it.

Q Did you go to the mayor's office and make your protest?

A No sir.

Q By your acts of carrying your sign on the street, isn't it a fact that you intended to keep people from going into places of business?

A Intended to keep them?

Q Yes.

A I still make my statement was to protest the type of law that was taken up on black people. That was the chief of mine, I reckon they were doing the same thing.

Q You wanted to keep people out of the stores because you felt that black people were being done an [47] injustice, is that right?

A I ain't said I wanted to keep them out of the stores.

Q Why did you want them not to go in the stores then? Let's put it that way.

A I wanted them to do something about giving them injustice in the city, around the city. We don't have no black people in the city government, no place.

Q Do you know Clyde Harris?

A Yes.

Q Is he a policeman?

A Yes.

Q Is he a black man?

A Yes.

Q Do you know Roosevelt Broach?

A Yes.

Q Is he a policeman?

A Yes.

Q A black man?

A Yes.

Q Bill Reddick?

A Yes.

Q Black man?

A Yes.

Q Policeman?

[48] A Not at City Hall. You got anybody at City Hall?

Q James Chiplin?

A Yes.

Q Do you know James Chiplin?

A Yes.

Q What kin is he to Charles Chiplin?

A Brother.

Q Is he a policeman?

A That's right.

Q And there are others, are there not? Walter Cole?

A That's right.

Q Do you know him?

A Yes.

Q There are black men in the Deputy Sheriff's, are there not? Is that right?

A They're not in city offices.

Q These are law men, are they not, all those that I've named?

A Yes sir, they're out there.

Q They are law men?

A Yes sir.

Q But what you were protesting about is something that the grand jury had done, was it not?

A I don't know if the grand jury did anything.

Q You mentioned something about a little 7 year old girl [49] that might have been violated.

A I didn't know that a grand jury action was taken on that case.

Q You didn't know about that. You were complaining then about the inaction or nonaction of the grand jury, were you not?

A Well that particular case now, all the words and what was said and what was being done, I don't have the particular words that were being spoken in that action. But I did know when I finally went to this meeting it was explained that this man had been charged $100 and released. I knew the man and had seen him because I carried my car there for him to work on.

Q You were protesting to the merchants about what the grand jury had done or had not done, is that right?

A I don't, you guys —

BY MR. ALEXANDER:

Your Honor, the witness has already explained what he was doing, and counsel —

BY THE COURT:

He thinks you are running the court and he's asking you whether or not he should answer. Go along.

BY MR. ALEXANDER:

I think that counsel is deliberately trying to confuse [50] this witness. The witness has already testified that he was engaged in the activity for a variety of reasons. Counsel —

BY THE COURT:

Well he's on cross examination counsel, and we have to allow a liberal cross examination. Go along. I'm not interested on either side whether this man is guilty or not guilty, I'm interested in knowing what federal right he was exercising to cause him to be accused of a State charge.

BY MR. ALEXANDER:

Your Honor, I believe he has already indicated what the right was, and we believe it is irrelevant what the purpose of exercising that right was.

BY THE COURT:

Well, I believe the man should be counted.

BY MR. CHANEY:

Q Would you tell us why you were protesting on Washington Street away from the City Hall and away

from the courts and away from anyone who could respond to your protest?

A Tell you why I was marching on the street?

Q Yes.

A I marched on the streets because I presumed I had a right, and that was the way, a respected way, of [51] protesting of the law without having doing any violence or anything. Now that's the way I presumed I was in my right to protest, to walk, in other words protest the activities of this city law. Because we have a man in Parchman right now. I could bring on a number of things which were stated by the, they sent him, somebody said, 15 years.

Q Were you wearing or carrying a sign while you were on the street that day?

A Yes sir, I did have a sign.

Q Were there other people similarly situated as you?

A I told you awhile ago.

Q You were they, do you know?

A Now let me say this, there was a lot of people there, some of them I knew and some of them I didn't. The ones that were around me I didn't know them. There was so many at the same time. When I saw the law, the guns, and everything on them, I didn't try to see who they were, because I hadn't did anything I thought was necessary for them to have all that kind of guns, and load me up and pushing and so on.

Q What did your sign say that you held?

A Let me see. I did remember, but —

Q Did you prepare and make the sign yourself?

A I did not.

[52] Q Did you write what was upon the sign?

A I did not.

Q So you really don't know recall and don't know what was on the sign?

A I did know.

Q Did you write somebody's tag number on the sign when you saw them go into the store?

A Tag number?

Q Yes, automobile tag number.

A I can't give you my tag number.

Q Did you write any tag numbers down?

A I didn't write any tag number.

Q Where did you obtain this sign?

A We have an office, they have, we, because I'm black, that's we, on 17 Grove Street.

Q Who has that office?

BY MR. ALEXANDER:

Your Honor, we object to this. It's wholly irrelevant, the activity that the petitioner was engaged in at the time of his arrest. Where he got the sign is irrelevant; that fact is, he was carrying a sign.

BY THE COURT:

I don't know that it is, counsel. I asked you if you wanted to have live testimony, and that's the only reason I'm letting you have live testimony so [53] that the facts can come out. You said it was best yourself, instead of the affidavit form. Overruled.

BY MR. CHANEY:

Q Who had this office at 717 Grove Street?

A It's the gentleman there who's here.

Q Mr. Ferguson?

A It's his office there. Yes, we have space there in Mr. Ferguson's office. We have a business place there.

Q Are you a part of the group called Concerned Citizens?

A I'm not a member.

Q You're not a member of Concerned Citizens?

A No sir.

Q Are you working with that group, helping them out?

A No.

Q You're not helping them out?

A I go to the service there, the church service every night.

Q But you're not a member of Concerned Citizens?

A No.

Q And you're not engaged in the same endeavor that they are engaged in?

A Well what they are engaged in and what I'm doing, now I can't say what they are engaged in.

Q I'm speaking of the boycott.

[54] A Well I'm not engaged in the boycott.

Q You're not engaged in that one —

A I go to the service we have. You see we have church service.

Q Who gave you this sign?

A Who gave me that sign?

Q Yes.

A I reached on the corner and got it.

Q Were there a number of signs over there?

A I don't know, sir. I done got me one and I don't know how many were over there.

Q Did other people reach and get signs also?

A Yes, I think they did. Yes, I saw some small children that got signs. They put babies and older people in jail.

Q How many people were at 717 Grove Street on this particular day?

A I don't know sir.
Q Ten? More than ten or less than ten?
A It was about 30 that was arrested. Where they all come from, I don't know.
Q Had they all been to 717 Grove Street?
A I don't know, sir.
Q Where is Mt. Nebo Lodge? Do you know where that is?
A That's just in there somewhere.
[55] Q Is that on Grove Street also?
A That's right.
Q Is it near 717?
A It's somewhere.
Q There were a number of people who got signs then at this address at 717 Grove Street that same day, were there not?
A The only thing I see was smaller children getting these signs.
Q Were you the only grown person in there?
A There were some more there, but I didn't see them get signs. When we all out out there in the street everybody had signs. Where they come from and who got them, I don't know where, there was so many of them.
Q What time did you go to 717 Grove that day?
A I went there about, somewhere around 15 minutes to 5:00, 4:30, somewhere near about that.
Q In the evening?
A Yes sir.
Q How long did you remain there before you left with the sign?
A About 5 minutes.
Q Why did you go there?
A Why did I go there?
[56] Q Yes sir.

A My daughter was somewhere and I wanted to see where she was.
Q You thought she would be there?
A Well, it was possible, because she does some typing there.
Q And you just accidentally ran into this other?
A No sir, I went there to see, there wasn't no accident, I went there to see if she was down there typing.
Q And you picked up your sign?
A I picked up my sign after I found out what happened.

BY MR. CHANEY:
If Your Honor will indulge us just a moment.

BY THE COURT:
All right.

BY MR. CHANEY:
Q Tell me what the word "Uncle Tom" means to you?
A Means to me?
Q Yes sir. What does it mean?
A I don't know what it means, that's just what I said.
Q Is it good or is it bad?
A I don't know what it means to anybody else.
Q If I called you an Uncle Tom, which I am not doing, but if I did, would that be a compliment to you, or would that be an insult to you?
[53] A It wouldn't make any difference.
Q It wouldn't make any difference?
A If I'm that, I'm just that, whether I like it or not.
Q Do most black people like to be called Uncle Tom?
A I worked with a group of boys, the whole time I

worked with them I called them Uncle Tom all the time and they laughed it off.

Q What does an Uncle Tom list mean?

A List?

Q Yes. If they read your name out in a meeting and said you were an Uncle Tom, would that be good or would that be bad?

A It wouldn't make me any difference. If I was an Uncle Tom it would just mean what it wants to.

Q I wouldn't make any difference?

A Wouldn't make any difference.

Q Do you know a man by the name of Charles Evers?

A Sure I know him.

Q Do you know him?

A Yes.

Q Know him well?

A Know him well.

Q Is he well known in the State of Mississippi?

A I don't know about that.

Q Did he run for governor?

[58] A He ran for governor.

Q And he's mayor of Fayette, is he not?

A That's right.

Q He's had a real high office in the NAACP, has he not?

A I don't know about that.

Q Do you know Mr. James Winfield?

A Yes sir.

Q And do you know Welton Wardell?

A Yes sir.

Q I'll ask you whether or not on the night of May 3, on or about that night of May 3, you saw the television news cast from Jackson wherein Mr. Wardell, Mr. Winfield, and Mr. Evers were on television? Did you see that?

A I see part of it, I didn't pay it too much attention.

Q Did you see Mr. Evers in the presence of Mr. Winfield and Mr. Wardell talking about the Vicksburg boycott? Did you see that?

A I didn't remember the word used as boycott. I hear only, excuse me, if you will allow me to say what I've seen.

Q I just want to ask you if you saw it.

A I could tell you the part I saw.

Q I'll get to that in just a moment please. Did you see and hear Mr. Evers say in the presence of Welton [59] Wardell and James Winfield that black people, substantially this: that we can discipline black people and it's none of their business what we do with them? Did you hear Charles Evers say that?

A I didn't hear him say that.

Q You didn't hear him say that?

A No sir.

Q You don't deny that he did say it, do you?

A The only thing I can say is I didn't hear it.

Q You didn't hear it?

A That's right so I can't say what he did.

BY MR. CHANEY:

That's all.

BY MR. ALEXANDER:

No further questions.

(Witness Excused)

BY THE COURT:

Who do you have next?

BY MR. WINFIELD:
Johnny Ferguson.

JOHNNY FERGUSON,
called as a witness for and on behalf of Plaintiff, was sworn and testified as follows:

DIRECT EXAMINATION

BY MR. WINFIELD:
Q Will you tell the court your name please?
[60] A Johnny James Ferguson.
Q Mr. Ferguson, where do you live?
A 1320 Openwood Street, Vicksburg.
Q How long have you lived in Vicksburg, Mr. Ferguson?
A 28 years.
Q Where are you employed, sir?
A I'm self-employed. Great Southern Production.
Q Great Southern Production, what's that?
A It's a promotion company, I buy and sell entertainment.
Q Where is your office located?

BY THE COURT:
You buy and sell what?

BY THE WITNESS:
Entertainment.

BY MR. WINFIELD:
Q Where is your office located?
A 717 Grove Street, Vicksburg.

Q Did you have an occasion to be arrested on or about the 2nd of May, 1972?
A Yes, I was.
Q Can you tell the court in your own words what activity you were involved in at the time of your arrest?
A I'm on the board of Concerned Citizens in Vicksburg, and the time I was arrested I was at home.
Q On May 2 you were at home?
[61] A May 2 I was at home, and Lt. Cole and a Capt. Coller came to my house and said I was charged with criminal conspiracy. They had a warrant for my arrest. And later after I got in the car and they were taking me to the police station, they told me the charge was conspiracy, criminal conspiracy.
Q What activity had you been involved in for the Concerned Citizens?
A The activities like I said was coordinating the activities the people in Concerned Citizens wanted the member of the board to coordinate for them. They gave us our directives and we would try and implement them to the best interest of —
Q What were those objectives?
A To find ways to get more jobs for black people, to try to get black people on Civil Service, jobs on boards of education, to see what could be done for needy families that should be on Welfare or Social Security, housing, the whole public service that should be rendered by the city.
Q Mr. Ferguson, what is your educational background?
A I attended high school in Vicksburg, I obtained a B.S. degree from Tougaloo College in economics, and I earned a Master's degree in business administration from Atlanta University.
[62] Q Can you tell the court just what had been taking

place in Vicksburg in terms of activities? Just tell the court what you were doing as part of the board.

A We were just coordinating the activities that the people of Concerned Citizens of Vicksburg were concerned about. As I said, they wanted to know about welfare, the needy families who needed welfare, they wanted to know about Social Security. They thought that a lot of people who were eligible weren't receiving it. They wanted to know about housing, and they felt that a lot of people needed that. So our main involvement was to find ways of channels or avenues that more people could get these jobs, they could get better housing, to try and get more people on welfare, those who were eligible.

Q Were you using picketing as a device for —

A Yes we did.

Q When did you start picketing, or the Concerned Citizens people start picketing?

A It was March 24 or 25, I can't remember the exact date.

Q How long did this picketing occur before there was an arrest? Before the May 2 arrest? Somewhere over a month or so?

[63] A Yes, it was more than a month. The picketing started on Friday, was either the 24th of 25th of March, and the first arrest was on May 2.

BY THE COURT:

Is picketing going on in Vicksburg now?

BY THE WITNESS:

No, it isn't going on now for the simple reason that if anyone gets on the street with a picket sign they will be charged with criminal conspiracy, and the bail is astronomical.

BY MR. CHANEY:

I object to the last answer, Your Honor, as being wholly an opinion of the witness, and I ask that it be stricken.

BY THE COURT:

I'll overrule that. There is always a lot of heat involved in these cases, more heat than light always.

BY MR. WINFIELD:

Q Mr. Ferguson, why do you feel that they would be arrested if they were picketing?

A Well, first of all I wasn't arrested for picketing, because I wasn't on the street, but I was charged with that, with criminal conspiracy. But there has been, I've heard statements while I was being booked [64] that anyone on the street, by the Chief of Police, that anybody on the street with a picket sign would be arrested. I was being booked on May 2 when he made the statement in my presence.

Q Do you know of any people who have had picket signs in Vicksburg and have not been arrested since May 2?

A Who have had a picket sign and have not been arrested?

Q May I restate the question. Were there any picketing between May 2 and May 13?

A Yes there were.

Q There was picketing between May 2 and May 13?

A No, because May 2 was when we got arrested, and the second picketing was the 13th which was the Mother's Day march. No, there wasn't any picketing between those dates.

Q What group was picketing on May 13, the first group to start picketing?

A The mothers who were marching in view of Mother's Day marched downtown. They weren't arrested at first, only after their march was over and was home. Rev. McBride was picketing, he was arrested, they heard about it and they wanted to show their grievance that if he should be arrested they figured that they all should be in jail so they started marching, picketing again, and they all were arrested.

[65] Q Mr. Ferguson, have you attended any meetings of merchants and city officials where they dealt with the problem of solving the selective buying campaign or boycott activities?

A Yes, I have.

Q Do you recall when you attended those meetings?

A I think about the last week, I'm not sure of the day, I think it was the last week in April. That was the first meeting with the merchants.

Q Had there been any tentative agreement or tentative suggestions on the part of the city as far as you were concerned?

A No there hasn't. After that first meeting, that was the second meeting we are talking about what could be done, and what they were, you know, prepared to do. But after that there's been no —

Q Were there any discussion of the criminal charges from anybody?

A Yes, at the first meeting there was a discussion I think by a Mr. Ford, I don't remember his first name. That if the picketing would stop that he would see to it, or something to that effect, that the charges would be dropped.

Q Why do you feel that those criminal conspiracy charges have been placed upon the people there in Vicksburg?

[66] BY MR. ELLIS:

We object to that, if Your Honor please, that would be purely opinion.

BY THE COURT:

I sustain the objection. You can tell what you know, what happened, you can tell us that. Let me ask you this: do you have any colored people who cross your picket lines?

BY THE WITNESS:

I haven't witnessed any black people crossing the picket line. I've heard that there have been, I haven't seen any.

BY THE COURT:

What did they do to them?

BY THE WITNESS:

We aren't forcing anyone not to shop. The idea of the Concerned Citizen is not to advocate violence; we try to explain the position of the majority of the black people of Vicksburg in the sense that we are asking for more jobs, we are asking for better conditions, better housing, we are asking for employment on board based on the population of Vicksburg.

BY MR. WINFIELD:

Q Mr. Ferguson, you are on the board, is that correct?

[67] A Yes I am.

Q Have you had any reports of people being, any action taken against people for breaking the line or going into stores?

A No.

Q Have you ever intimidated anyone or used any coercion to prevent anyone?

A No.

Q Have you been at most of the meetings, many of the meetings?

A Yes I have.

Q Have you ever recalled anyone discussing using violence or intimidating anyone?

A No I haven't. The board has take the position to discourage any kind of violence whatsoever.

Q Where is this discouraging or discussion generally taken place?

A They are usually taken place at the Concerned Citizens office.

Q Is there any discussion in meetings?

A Yes. In fact they all are discussed there. The people present a list of things they want the board to coordinate from the floor of the mass meeting. The board began to put into action some of the ideas and suggestions that the people in the mass meetings [68] have come up with.

BY THE COURT:

Is that everything that your organization has done toward getting those objectives that you mentioned?

BY THE WITNESS:

Up to this point, yes we have.

BY THE COURT:

Up to what point?

BY THE WITNESS:

Up to this point, because we haven't been, we met with

the city officials once, and the merchants twice, to discuss what could be done in terms of alleviating some of the hardships that black people have to endure in Vicksburg.

BY THE COURT:

What age group belong to your organization?

BY THE WITNESS:

Well it's not a membership of sort or organization —

BY THE COURT:

Everybody that's black and anybody that wants to carry a placard is a member. Is that right?

BY THE WITNESS:

The whole community is part of Concerned Citizens.

BY THE COURT:

Do they have to come from Vicksburg?

[69] BY THE WITNESS:

Well the name of the organization is Vicksburg Concerned Citizens, so they all are from Vicksburg, yes.

BY MR. WINFIELD:

Q Mr. Ferguson, do you know of any people from the outside community ever picketing or taking part in those activities? With the exception of probable speakers.

A No I don't.

Q Mr. Ferguson, have you ever taken anyone's picture that you had seen crossing a line or anything to that effect?

A No I haven't.

Q Have you known of anyone taking pictures?
A No I don't.
Q Have there been any pictures presented at mass meetings?
A No.
Q Have there been any tag numbers read off at a mass meeting that you know of?
A No.
Q Have you heard of an Uncle Tom list?
A Heard of an Uncle Tom? No I haven't.
Q With reference to this particular motive?
[70] A No.
Q Have you made any phone calls to any black or white citizens not making yourself known to the other person?
A No I haven't.
Q Do you know of any other person that is part of Concerned Citizens doing any of these activities?
A No I don't.
Q Mr. Ferguson, as far as you know, will you just in summary tell us what activities these people were involved in when they were arrested as far as you know?
A The majority of the people who were arrested, other than those who were home like I was when they were arrested, were picketing the downtown area, Battlefield shopping area, protesting their grievances. Some of them had grievance ranging from finding jobs to better housing.
Q Do you know of any traffic jams or any disturbances in the city because of the picketing?
A No.

BY MR. WINFIELD:
No further questions.

CROSS EXAMINATION

BY MR. ELLIS:
[71] Q How old did you say you were?
A I didn't say how old I was, I said how long I'd lived in Vicksburg. I'm 30 years old.
Q Who is the leader of the Concerned Citizens?
A The leader of the Concerned Citizens? The chairman of the board is Rev. E. L. McBride.
Q And he is the spokesman of this group?
A Yes he is.
Q Do you see him in the courtroom?
A Yes I do.
Q He's in the courtroom? Were you on the executive committee of Concerned Citizens on the evening of March 23, 1972?
A Yes I was.
Q Had a boycott been placed into effect that day?
A I don't remember the exact date, it was a Friday, yes.
Q Had your group given any notice to any of the merchants as to any particular grievance against them?
A Yes.
Q I'll show you this (hands document to witness). Can you identify that?
A Yes I can.
Q Was that your list of grievances?
A Yes it was.
Q From which you were causing a boycott of merchants [72] in the city of Vicksburg?
A A selective buying campaign.

BY MR. ELLIS:
Which we offer as an exhibit to his testimony Your Honor.

BY THE COURT:

It may be marked for identification.

(Received in evidence and marked Defendant's Exhibit #1.)

BY THE COURT:

Does the other side want to see that? Put it in for identification until the other side rests.

BY MR. ELLIS:

Q Now was that the bounds under which the boycott was originated?

A I'm not sure I understand your question.

Q In other words, the list of demands that were being made in that particular letter there, was it complaints that your group had against the white merchants?

A Those were some of the complaints.

Q Which white merchant did you have a particular complaint about, any specific complaint about?

A It wasn't specific, it was collectively. I felt that they all could aid in giving better and more jobs to black people.

Q Was the A&P store in Vicksburg placed in the boycott?

[73] A Yes sir.

Q Were you aware that there is a black manager of the A&P store on Clay Street in the city of Vicksburg?

A No.

Q Are you aware of the percentages of blacks that are employed in this particular A&P store?

A No.

Q Would you say that it was over 40 percent blacks employed in the A&P store?

A I don't know sir, I couldn't say.

Q But they were placed in the boycott?

A Yes sir.

Q You had no particular grievance against the A&P store in the city of Vicksburg?

A As I said it was collective.

Q What about J. C. Penney's in Vicksburg?

A The same holds true for J. C. Penney's.

Q Would the same hold true for all businesses that were either owned by white people or operated by white people in the city of Vicksburg?

A I'm not sure I understand your question.

Q Was there any white store in Vicksburg that was not placed under boycott?

A Yes.

[74] Q Which white stores?

A Drug stores, hardware stores, hardware and supply stores.

Q Would you name the stores?

A This would include all of them.

Q Do you know where the Crystal Pharmacy is in Vicksburg?

A I think it's on Washington Street.

Q Do you know Albert Johnson?

A Yes I do.

Q Was he a member of your group?

A He is in Concerned Citizens.

Q Does he work in conjunction with your group to encourage a boycott of merchants in the city of Vicksburg?

A He encourages the activity of black people to secure better and more jobs, housing, better economic conditions for black people.

Q Do you know Bennie Williams?

A Bennie Williams? I can't say I do.

Q Were you in the presence of Albert Johnson and your leader Rev. McBride in front of the Crystal Pharmacy during the month of May in which Albert Johnson put his face up to the window and whistled for Bennie Williams to come outside, and Bennie Williams being a white man, and then confronted him concerning him [75] making purchases in that store?

A No I wasn't.

Q You weren't present and didn't hear the threats that he made to him to encourage him not to shop at white-owned businesses?

A No.

Q Have you heard about it?

A No I haven't.

Q You have not? What type of persuasion would you do to encourage people to keep from shopping at white-owned stores?

A Reasoning.

Q Reasoning?

A Yes.

Q You attended most or all of the meetings of the Concerned Citizens?

A Most of the meetings, yes.

Q Did you as a member of the executive committee approve certain leaflets and pamphlets that would be circulated among the black community?

A I don't approve, the people at the mass meeting approve it, we only institute what they want.

Q I'll show you this item. (Hands document to witness.) Do you recognize this?

A I've seen something similar to that.

[76] Q Is that a document put out by the Concerned Citizens?

A Well I can't swear to it, but it's something similar to

that. It doesn't say anything about Concerned Citizens on it.

Q But I ask you, is this the document that your group put out?

A I can't swear to it. We put out some —

Q Do you disown that as being —

A I just saying it's a possibility that it is. No, I don't disown it, but I can't readily say that it is.

Q During the meeting what was meant by preparing a list of Uncle Toms?

A I think I said I don't remember having heard the statement of preparing a list of Uncle Toms.

Q Do you have a member in your group who's last name ends, I believe, is Phelps?

A She is a Concerned Citizen.

Q Were you present at the meeting in which she read off 26 names of people that had been followed and their license tags taken down and who were shopping in white merchant's, and formed this group to use enforcement tactics on them to prevent them from shopping? Were you present at that meeting?

A No.

[77] Q Were you present at the meeting when your leader Eddie McBride told the members of the group that when you find people that are shopping in white-owned stores to start calling them and harassing them at 4:00 and 5:00 in the mornings?

A I have never been in a meeting where such was said.

Q Have you heard any recordings of those meetings?

A Any records of the meetings, of the Concerned Citizens mass meeting?

Q Yes.

A Yes, I've had occasion to hear a couple of recordings.

Q And you never heard those type of items on recordings either?

A Never.

BY THE COURT:

Is there more than one group that is engaged in some kind of boycott, or if you want to say, selective buying, in Vicksburg?

BY THE WITNESS:

As far as I know, Your Honor, that's the only group, is Concerned Citizens.

BY THE COURT:

Concerned Citizens is the only group? There's not some church group in addition to that that is involved in the same activity?

[78] BY THE WITNESS:

No, they won't be. A lot of churches might be involved because they are members by nature by the fact that they are black and are concerned about the activities and conditions in Vicksburg. But except for a separate group I don't know of any.

BY THE COURT:

All right.

BY MR. ELLIS:

Q Now you had stated that when you were arrested you were arrested on an arrest warrant and that you were at home?

A Yes.

Q And the charge for which you were arrested was for conspiring with E. L. McBride and others to bring about a boycott of merchants?

A The only thing that was told me was that I was charged with criminal conspiracy and I was under an arrest.

Q And you have an attorney?

A Yes.

Q You checked into the affidavits?

BY MR. WINFIELD:

We object to that Your Honor, and the basis for my objection is that the attorney did check into it and there was no mention of anything violent in the [79] particular warrant that showed this man's name.

BY THE COURT:

Well I'm not going into that angle of it.

BY MR. WINFIELD:

Thank you, Your Honor.

BY MR. ELLIS:

Q So your arrest was on May 2, 1972?

A Yes.

Q Were you arrested the day before Mother's Day?

A No.

Q Were you on the main streets the day before Mother's Day?

A I'm not sure I understand.

Q Did you see any activities going on on Washington Street and in this district of town on Saturday, May 13?

A Yes I did.

Q Were you present for how long on the streets?

A I just drove down, went to the post office and back to the office.

Q But you were not participating in that group on May 17?

A I'm always participating in activities of Concerned Citizens, because first of all I'm black, and I'm interested in the welfare of black people in Vicksburg. [80] I may not have been on the street, but I'm always interested in the plight of black people here.

Q But you were not arrested and have not been arrested since May 2, 1972?

A No, I haven't.

Q And you are out on bond?

A Yes I am.

Q You are out on bond at this time?

BY THE COURT:

What kind of bond are you on?

BY THE WITNESS:

$5,000.

BY THE COURT:

Did you ask anybody to reduce that?

BY THE WITNESS:

The attorney dealt with that.

BY THE COURT:

All right.

BY MR. ELLIS:

Q How long were you in jail before you were able to meet that bond?

A Approximately two days.

Q You spent one night in jail?

A Yes.

Q Is that right?

[81] A Well, I think it was something like 36 or 37 hours.

Q You say you know E. L. McBride?

A Yes I do.

Q On the day of May 17, did you see him on Washington Street?

A I can't say I did or I can't say I didn't. I don't remember exactly what happened on May 17.

Q Did you notice him carrying a camera around his neck?

A No, I haven't noticed him carrying a camera.

Q What about binoculars?

A I've seen him in the office with binoculars.

Q With binoculars? Have you ever seen any pictures of black people carrying bags out of white-owned stores?

A No.

BY MR. ELLIS:

May we have the court's indulgence? That's all.

BY THE COURT:

All right. Any Questions?

BY MR. WINFIELD:

Yes, Your Honor.

RE-DIRECT EXAMINATION

BY MR. WINFIELD:

Q Mr. Ferguson, what relationship do you see as a member of the board between the merchants in the [82] city and city officials, and the problems and grievances which you all have?

[82] BY MR. ELLIS:

I object to that, Your Honor.

BY THE COURT:

I'll let him answer.

BY MR. ELLIS:

We object to the form of the question.

BY THE COURT:

I'll let him answer.

BY THE WITNESS:

What relationship?

BY MR. WINFIELD:

Q Do you see on the part of the board the merchants and city officials has, what relationship do you see that they have with reference to grievances that the committee has, that Concerned Citizens has?

A The things that the black people of Vicksburg are asking for are in conjunction, basically in conjunction with both the city officials and the merchants; the activities of the merchants in not allowing more black people to work other than janitorial positions are uncalled for because there are sales people and managerial type peo-

ple in Vicksburg who are qualified and able to do a good job. Basically, [83] I think it's good business for businessmen to hire black people. In conjunction with the city, there are very few, two or three at the most, employed with the city; and yet black people in Vicksburg compiles more than 46 per cent of the population, and there are no black people other than janitors working in City Hall. I understand recently they might have had a clerk that has recently been hired, but there are no black people in the Civil Service force, there aren't any black people on the housing authority boards, at least there aren't any in decision making jobs.

BY THE COURT:

None on the police department?

BY THE WITNESS:

Yes, there are some blacks on the police department, and one of the demands was to establish a police review board, because white people, they have been getting injustice from both and black cops, and one of our demands is to deal with that situation.

BY THE COURT:

Do you all call those cops in Vicksburg Uncle Toms?

BY THE WITNESS:

I haven't witnessed any.

BY THE COURT:

[84] Let me ask you this, have you ever observed, or known of, or heard of, any violence in connection with your campaign that you are conducting over there in Vicksburg regardless of what you call it?

BY THE WITNESS:
I think the question was, have I heard of, or do I know of —

BY THE COURT:
Have you heard of or known of any violence of any kind either accomplished or asserted in connection with your program?

BY THE WITNESS:
No I haven't.

BY THE COURT:
Never have. All right.

BY MR. WINFIELD:
Q One other question, Mr. Ferguson. Do the members of the board make any attempt to negotiate a settlement in any way with the city, with the city and the merchants?
A Yes.
Q But there was nothing really worked out as far as you know?
A No goals, nothing worked out. A couple of days later, about a day and a half later, that's when [85] the arrests took place. When I was arrested at home and other members of the board, and a couple of other people who were arrested right after the meeting with the officials.

BY THE COURT:
Did your wife participate in this program?

BY THE WITNESS:
Did my wife participate in the program? Yes, she does.

BY THE COURT:
Did they arrest her?

BY THE WITNESS:
No.

BY MR. WINFIELD:
Q Mr. Ferguson, what do you hope to gain out of this, out of the activities of Concerned Citizens?
A I hope to see a better Vicksburg out of the efforts of the Concerned Citizens there. I hope to see better jobs, more jobs and better jobs, for black people. I'd like to see black people taking part in city government in terms of helping run a decent good city. I hope to see better housing. Just all around better economic conditions for everybody in Vicksburg.
Q Mr. Ferguson, did you happen to live out of the State [86] for any period of time?
A Yes I have. After I finished grad school my wife and I moved to New Jersey with the idea of making and saving money in order to come back to Mississippi in order to go into business. That was accomplished about a year ago when I moved back in order to establish my business in Vicksburg, because that was where I wanted to live. The primary reason I didn't come back after finishing graduate school is because I didn't have money and I needed to save some in order to do what I wanted to do.
Q But you want to make Vicksburg your home?
A I definitely do.

BY MR. WINFIELD:
We have no further questions.

(Witness Excused.)

BY MR. WINFIELD:

We would like to call Mr. Eddie Thomas.

EDDIE THOMAS,

called as a witness for and on behalf of Plaintiff, was sworn and testified as follows:

DIRECT EXAMINATION

BY MR. WINFIELD:

Q Will you tell the court your name please?

A My name is Eddie Thomas.

Q Mr. Thomas, where do you live?

[88] A I live at 2217 Latitia Street in Vicksburg, Mississippi.

Q How long have you lived in Vicksburg?

A I've lived in Vicksburg 26 years.

Q What kind of work do you do there, sir?

A I ran a barber shop.

Q Are you aware of the campaign of Concerned Citizens in Vicksburg?

A Yes, I am.

Q Have you been arrested at any time?

A No, I haven't.

Q There were a couple of incidents that we would like to draw your attention to; specifically, first one is on about May 21, I believe — were you with a one Albert Johnson near, or were you near the scene where an incident occurred between Mr. Albert Johnson and a Mr. James Sturgis?

A Yes, I was.

Q Can you tell the court in your own words just what took place there? If I may, Your Honor, that has to do with

the arrest of Albert Johnson. Will you tell the court in your own words what happened?

A I had drove down Washington Street heading south, and Albert Johnson was standing on Washington Street in the 1600 block. I waved at him and he asked me [88] where was I going, and I said, "Where do you want to go?" He came across the street and got in the car with me and he said, "Cliff, a fellow that drives a taxicab, was supposed to pick me up and I was supposed to ride around with him until time to go to the Mercy Hospital to visit my aunt, she's in the hospital." And I said, "Well, I've got a few minutes, I'll take you." We went around and went up Clay Street past a supermarket there that would be open on Sunday morning called Hep-U-Self. Then I drove on up to Openwood Street where a supermarket called Humpty-Dumpty. I spoke, I said, "Looks like a lot of people shopping here today." He said, "Yes, let's stop, I want to use the phone anyway." I pulled on the parking lot and stopped and he got out. When he approached the door to go by the door where the telephone was, Mr. Sturgis came out of the door, and they passed right by each other. Mr. Sturgis got in the car, his wife was sitting in the car, and he got in his car and pulled off, started up Openwood Street, which is northeast. He drove a few yards up Openwood Street then he stopped in the middle of the street and another car almost hit him from behind. His wife opened the door as if she was going to get out, and he must have said something to her, because she got [89] back in. Then he made a u-turn on the parking lot behind Humpty-Dumpty and came back up Openwood and parked on Humpty-Dumpty lot where he had left from.

BY THE COURT:

Just ask him some questions. He's talking on about

things that don't mean a thing in the world to me. I just want to find out about this lawsuit.

BY THE WITNESS:
Well, I'm right at the point of what happened.

BY THE COURT:
All Right.

BY THE WITNESS:
Then when he parked he jumped out of his car and Albert Johnson was standing there near the curb because he was fixin to cross the street. Mr. Sturgis walked up to Mr. Johnson and he called him Bouncer. He said, "Bouncer, are you looking for something?" He didn't say anything. Then he raised his hand and said, "If you want my tag number, or my house number, or my phone number, I'll give them to you, you don't have to come looking for me, I'll give them to you." Bouncer was still walking away from him, and he laughed. When he laughed his wife jumped out of the car, Mr. Sturgis' wife did; and when she jumped out of the car, she said, "You better not do nothing [90] to that car, you can laugh all you want to, but you better not do nothing to that car." Those were the words she used. Then Mr. Sturgis started repeating —

BY THE COURT:
Who is Sturgis?

BY THE WITNESS:
This is the man that signed the affidavit against Albert Johnson. He started repeating his home address, his phone number and his tag number, repeating them over and over. Mr. Johnson said, "I don't want your phone

number because you're our principal." He said, "I'm not your principal because you don't go to high school." He said, "That's right" and he came on across the street and got in the car with me. We drove off —

BY THE COURT:
Who got in the car with you?

BY THE WITNESS:
Albert Johnson. Mr. Sturgis and his wife got in their car and they drove off the same direction they started the first time up Openwood Street. I didn't hear anymore, that was all said there on the scene; and wasn't anything else said until I got a phone call about an hour and a half later. Said, "Mr. Bouncer, Mr. Albert Johnson said come to the jail house, Mr. Sturgis has [91] had him arrested." I said, "What's the charge?" Well, the person that called me didn't know, so —

BY THE COURT:
I don't want to hear any more of that. That's on the question of whether he's guilty or not, I'm not interested in none of that.

BY MR. WINFIELD:
Your Honor, the intent is to show the circumstances surrounding that more or less we just having something, just people committing acts —

BY THE COURT:
Go ahead file —

BY MR. WINFIELD:

Q Will you tell us about what you know about this buying campaign? Your barber shop is on Washington Street, is that right?

A Yes, it is.

Q So you have had an opportunity to observe some of the activities, some of the picketing and what have you. Have you ever seen anyone intimidate or threaten anyone?

A No, I haven't.

Q What about prior to the May 2 arrest, had you seen anyone threatened?

A I haven't seen anyone threatened. All I've seen is them walking the street with their picket signs with [92] different wordings on them.

Q On May 13, did you hear or see any disturbance in the city of Vicksburg?

A No, there wasn't any disturbance I knew about.

Q Are you aware that arrest were made?

A Right.

Q Do you feel the selective buying campaign, or boycott, if you care, is fairly effective?

A It was.

Q Have any merchants talked to you at all about it?

A Yes.

Q What was the nature of that, as far as you know?

BY MR. ELLIS:

We object to that.

BY THE COURT:

Sustained.

BY MR. WINFIELD:

Q Have you known of any efforts to end the selective buying campaign by Concerned Citizens?

BY MR. ELLIS:

We object to that, Your Honor.

BY THE COURT:

Sustained.

BY MR. WINFIELD:

Q Have you heard of any violence in the city of Vicksburg [93] associated with the selective buying campaign?

A No, I haven't.

Q Mr. Thomas, have you been attending the meetings?

A Yes, I've been attending regularly.

Q Have you appeared at any meeting where you heard an Uncle Tom list ran off, or any list of names of persons who had been shopping?

A I heard some individuals in the audience name some people they had seen shopping.

Q Did they have a list, or how was that done, you know?

A I don't know whether they did it orally or they had them written down, but I know they called some names of some people.

Q Was there one person who would stand up and read them or what occurred, as far as you know?

A Just different ones in the audience have stated some people that they had seen shopping downtown.

Q Is there any special time set aside for this, or is this just something that occurred?

A It's just when whoever is presiding asks if anybody has any comments or any statements to make.

Q Have you on any occasion heard Rev. McBride or anyone in charge at the meeting advocate the use of threats or violence?

A No, I haven't.

[94] BY MR. WINFIELD:

I think that's about it. That's all.

BY THE COURT:

What would be the reason or occasion for your attending these meetings? What would you be there for?

BY THE WITNESS:

Well, I be there because I am concerned or interested in whatever takes place in the city where I live.

BY THE COURT:

But you don't participate in a picket line?

BY THE WITNESS:

Oh, I have picketed, yes.

BY THE COURT:

All right.

CROSS EXAMINATION

BY MR. ELLIS:

Q You say you have picketed on occasions?

A Yes, I have.

Q Have you been arrested in Vicksburg since the boycott began in March of this year?

A No, I haven't.

Q You're not under arrest now?

A No, I'm not.

[95] Q You're not under bond to any court?

A Not under bond.

Q Now, concerning Albert Johnson and the incident at the Humpty-Dumpty of a man named Sturgis, is he white or black?

A He's black.

Q Was he shopping in the Humpty-Dumpty?

A When we arrived he was coming out from Humpty-Dumpty. Whatever he did, he did it before we got there.

Q Did he have any bags in his hand?

A He had a small bag in his arm.

Q Is Humpty-Dumpty a white-owned business?

A Yes.

Q Had it been the subject of a boycott?

A Yes.

Q Are you familiar with the number of times that windows were broken in the Humpty-Dumpty grocery store during the boycott?

A No, I noticed in the paper one time. Once it was in the paper that a window was broken.

Q You have observed at least once that a window at the Humpty-Dumpty had been broken?

A Yes.

Q Albert Johnson, is he affiliated with Concerned Citizens?

[96] A As far as picketing, yes.

Q And for its enforcement tactics?

A I never knew of any enforcement tactics he would use.

Q When you parked your car on that day, was it in the parking lot of Humpty-Dumpty or across the street?

A It had two parking lots, one was on one side of the street and one was on the other, and I was on the right hand side going north.

Q On the other side of the street. Professor Sturgis, is he principal of one of the two high schools in the city of Vicksburg?

A He is.

Q And that was the man who made the complaint to the law enforcement authorities that led to the arrest of Mr. Albert Johnson for intimidating and coercing him in the prevention of him shopping in a business?

A They said he signed the affidavit.

Q Do you know Coach Marcum?

A Yes, I do.

Q Do you know where Coach Marcum lives?

A No, I do not.

Q Would it be true that he lives next door to Professor Sturgis?

A I don't know, I just met him on the street.

Q Are you aware of the fire bombing of Coach Marcum's [97] automobile during the night?

A I heard his car burned, I didn't know whether it was bombed or not.

Q At the meetings you have attended of the Concerned Citizens, did you hear the names of Professor Sturgis and Coach Marcum being mentioned as Uncle Tom's people who would not go along with the boycott?

A No.

Q Never heard —

A Not about Coach Marcum, no.

Q Were you in city court about four or five weeks ago when Albert Johnson was being tried on the charge of intimidating a black person by inflicting him with serious

bodily injury for shopping in a white-owned place of business?

A Yes, I was.

Q Were you in city court when a similar type charge was brought and on which Albert Johnson was found not guilty by the city court?

A Yes, I was.

Q Were you at the habeas corpus proceeding that was conducted in the circuit court of Warren County, Mississippi, approximately three weeks ago on which the bonds of those who were arrested were reduced to a lower amount by the circuit court?

[98] A Yes, I was.

Q Is it not true that these individuals who had petitioned the circuit court were already out under the reduced bonds when they appeared in court for the hearing on that Saturday morning?

A I'm not familiar with that part of it on whether they had been already reduced or whether they were being reduced.

Q How many spectators did the Concerned Citizens bring to their court proceeding?

A It was more than the courtroom would hold.

Q And the courtroom would hold about 550 people?

A I'm not sure how many it would hold. Concerned Citizens didn't bring them, the people just came.

Q Now on May 17, a Saturday, on Saturday about three weeks ago, were you on Washington Street when the picketing was going on?

A Yes, I was.

Q Did you observe the picketing?

A That I saw, yes.

Q Did you observe some of the picketers pulling peo-

ple out of the stores, black people who were shopping in the store?

A No, I didn't.

[99] BY THE COURT:

What was the question?

BY MR. ELLIS:

I asked him if he observed on the picketing that took place Saturday, I believe, May 17, if he observed picketers pulling black people out of the stores who were shopping.

BY THE WITNESS:

No, I didn't.

BY MR. ELLIS:

Q Did you go up and down Washington Street or stay at your place of business?

A I went all the way from China Street, that's about the 11th or 1000th block, back to the 1600th block, on both sides on two different occasions.

BY THE COURT:

What were you looking for?

BY THE WITNESS:

I was just looking at the people, observing what was going on.

BY THE COURT:

What day of the week was that?

BY THE WITNESS:

If we have the same day in mind, it was on a Saturday.

[100] BY MR. ELLIS:

Q That would be the day identified as the day before Mother's Day?

A That was on a Saturday.

Q And you were not participating in any organized effort to prevent people from shopping at white-owned places of business on that day, were you?

A No, I wasn't.

Q Do you have any specific grievance against any specific merchant in the city of Vicksburg?

A Not any specific one, no.

Q Are you aware that the A&P store in the city of Vicksburg is under boycott?

A All white-owned stores are in the selective buying campaign.

Q Are you aware that the manager or assistant manager of this A&P store is a black man?

A Yes, I am.

Q Are you aware that more than 40 per cent of the personnel employed in this A&P store are blacks?

A No, I'm not aware of that.

Q And I show you this item. (Hands item to witness.) Have you seen it before?

A Yes, I have.

Q Is it a document of the Concerned Citizens?

[101] A I'm not sure, but I've seen it before. Some youngsters were passing them out on the street and I got one of them, but wasn't any picketers passing them out.

BY MR. ELLIS:

We offer that for identification purposes.

BY THE COURT:

It may be marked for identification.

(Received for identification and marked Defendant's Exhibit #1.)

BY THE COURT:
Go ahead.

BY MR. ELLIS:
Q Now you had mentioned earlier, at the meetings of Concerned Citizens that names would be called out of people who shopped at —

BY MR. WINFIELD:
We would object to it as being in evidence.

BY THE COURT:
It is offered for identification. All right.

BY MR. ELLIS:
Q You had stated in direct testimony that during your attendance at the meetings of the Concerned Citizens that names would be called off by different people of black persons who were shopping during the boycott, [102] is that correct?
A That's correct.
Q And who was taking down these names?
A No one was taking down any names.
Q And these names that were being mentioned, did they coincide with the list that was being circulated among the black community, that an Uncle Tom list was being prepared to punish people who had shopped the places of the boycott?
A I never seen or heard of any such list.
Q What was being done about these names that were being called out?

A Just friends would know who their friends are, that's all.
Q Are you aware that after the names were being read at the meetings of the Concerned Citizens that some of these individuals had bricks thrown in their windows at night?
A I haven't heard of any.
Q And like Coach Marcum's automobile was set on fire?
A No, I didn't know his car was set on fire.
Q May I have the court's indulgence a second. (pause) How many people would you say were out on Washington Street picketing on Saturday before Mother's Day?
A Well, that morning I guess there was roughly 20 to [103] to 25 people, mothers.
Q Of course, there were no arrests made in the morning, is that correct?
A No arrests made in the morning.
Q And as a matter of fact after the picketing and the demonstration had taken place, it was some two hours later when there was mass picketing of over 100 people coming in the three-block area of Washington Street blocking the sidewalks and stores on which there were arrests.
A I didn't see the number that afternoon when they were arrested.
Q Do you know Mayor Charles Evers?
A Yes, I do.
Q Do you know attorney James Winfield?
A Yes, I do.
Q Do you know Welton Wardell?
A Yes, I do.
Q Did you observe them on television the night when Mayor Evers said that he had a right to discipline black

people who didn't go along with the boycott, and it was nobody's business but his how they would be punished?

A No, I didn't see that. I heard about it, but I didn't see it, see the news cast that night.

[104] Q But you heard about that.

A Yes.

Q And black people in the city of Vicksburg had heard threats that were made by Mayor Evers of interrogations to be taken against those that did not agree with the boycott, did you say?

BY MR. ALEXANDER:

Your Honor, we object, Mayor Evers is not a petitioner in this cause.

BY THE COURT:

Maybe he was an enforcing officer. Overruled.

BY MR. ELLIS:

Q And the black people in the city of Vicksburg are aware of the threats that Mayor Evers made in regards to these people who would not go along with the boycott, is that right?

A I didn't hear it, so I don't know whether he made a threat or not.

Q What I'm asking you is that the black people in the city of Vicksburg are aware that the threat was made over television and in the newspaper by Mayor Evers?

A What I read in the paper said the news reporter asked the question and he said he had ways of discipling their people, his people. Whatever discipling meant, it didn't sound like a threat to me.

[105] Q May I have the court's indulgence one moment please. (Pause) Would this not be the statement that you

referred to in questioning him about what action may be taken against the boycott. Mayor Evers said, "We have the right to discipline black people. The way we deal with them is our own business." Is that the statement you are referring to?

A That's the statement.

Q And who among the Concerned Citizens would carry cameras down Washington Street and take pictures of black people who were shopping in the white stores?

A You said who would do it?

Q Yes.

A Anyone that wanted to I guess.

Q And have you seen the leader of the boycott, Rev. McBride, have you seen him toting a camera around his neck and snapping pictures of black people who shopped in white-owned stores?

A I've seen him with a camera, I've never seen him snap anybody's picture.

Q You've never seen him snap anybody's picture?

A No.

Q This has been on more than one occasion, right?

A Most time he has binoculars, not a camera. Some people have mistaken them for a camera, but they are binoculars.

[106] Q Is he recognized as the leader of the boycott?

A Of the Concerned Citizens, yes.

Q The statement that Mayor Evers made on or about May 3 or 4, 1972, has that statement ever been repudiated?

BY MR. WINFIELD:

We object, Your Honor. This witness has no means at all to deal with whether or not that statement has been repudiated.

BY THE COURT:

Well he could just tell what he knows, if he knows he can tell, if he doesn't he can say so.

BY MR. ELLIS:

Q Has that statement ever been publically repudiated by the Concerned Citizens to notify the blacks in the city of Vicksburg that the enforcement tactics promised by Mayor Evers were not going to be used?

A Getting back to the meeting to answer your question; you see, I attend most of the meetings, and I never heard it state from the rostrum of the meeting from any of the leaders to use any forceful means to keep anybody out of the stores. All I've heard was use peaceful means. Just wear your picket sign and walk the picket line and don't say anything to anybody. Those were the instructions that were given out.

Q Are you aware that at the Colonial Shopping Center [107] at the Jitney Jungle Store there of the two black women, I forget their names right now, who were carrying out bags of groceries and which Albert Johnson and others chastised them for shopping at the grocery store and took the bag of groceries and threw it on the ground and broke it? Are you aware of that?

A I'd never even heard of that.

Q Never heard of it. Had you seen Rev. McBride and others connected with the Concerned Citizens taking down license tags of shoppers who were in this district of Vicksburg?

A No, I have not.

Q You have not?

A No.

Q Have you heard at the meetings that this was to be done so we'd know who to handle and who to treat in ac-

cordance with what Mayor Evers had lain down as a dictate to dealing with black people?

A No, I have not.

Q Do you agree that black people who disagree with you in carrying out the boycott should be intimidated and threatened by you and your group?

A No.

Q By Albert Johnson?

A No.

[108] Q Or by Rev. McBride?

A No.

Q Do you have any specific grievance against any specific merchant on which you are boycotting?

A Not as an individual, no.

Q You are boycotting against all white merchants because they are white people?

A No.

BY MR. ELLIS:

That's all the questions.

BY MR. WINFIELD:

Just a further question, Your Honor.

RE-DIRECT EXAMINATION

BY MR. WINFIELD:

Q Mr. Thomas, do you know if Mr. Evers has ever picketed in Vicksburg during the particular movement?

A No.

Q Do you know whether or not he has been designated or asked in any way to function as a leader or enforcer in the movement?

A No.

Q Have you personally heard of Mr. Evers making that statement with reference to the selective buying campaign?

A No.

[109] Q Have you conspired with anyone to violate any laws in the State of Mississippi?

A No.

Q Anybody in your family?

A No.

BY MR. ELLIS:

We object to that, Your Honor.

BY THE COURT:

Overruled.

BY MR. WINFIELD:

Q Have you known of anyone who has?

A No, I haven't.

Q Have you known of any violence, that is, anyone fighting of getting cut or shot, or anything of that nature to occur in Vicksburg since the beginning of, with reference to the boycott or selective buying campaign, since March 25?

A None whatsoever.

Q So you know of no charge other than the charge of criminal conspiracy and affidavits, several affidavits, by Mr. Sturgis; do you know of any incidents other than, any charges, other than criminal conspiracy charges and the charge against Albert Johnson and the charge by his niece?

A No, no other charges.

[110] BY MR. WINFIELD:

That's all.

BY THE COURT:

All right. Anything further?

BY MR. ELLIS:

No further questions.

(Witness Excused)

BY MR. WINFIELD:

Your Honor, we have, I know you've heard three, but we have one that we'd like to make very brief.

BY THE COURT:

All right, I'll let you. Go along.

BY MR. WINFIELD:

We call on Charles Chiplin.

CHARLES CHIPLIN,

called as a witness for and on behalf of Plaintiff, was sworn and testified as follows:

DIRECT EXAMINATION

BY MR. WINFIELD:

Q Will you tell the court your name, please?

A Charles K. Chiplin.

A Are you a Reverend?

A Yes, I am.

Q Mr. Chiplin, will you tell the court you've been arrested during the selective buying campaign?

A Yes, I have.

[111] Q Do you have any idea, roughly, you have been arrested, you were arrested on May 2, is that correct?

A This is correct.

Q Briefly tell the court what you were doing on May 2 when you were arrested.

A On May 2 I was walking up Washington Street with a picket sign, and an officer stopped me and said, "You are under arrest."

Q On May 13 were you arrested, Reverend?

A Yes, I was.

Q What were you doing at that time?

A On May 13, I was walking with a picket sign and was arrested.

Q Reverend, have you ever threatened anyone, coerced anyone, with reference to this particular movement, campaign?

A No, I have not.

Q Do you believe in strong-arm tactics in support of your movement?

A No, I do not.

Q Have you attended most of the meetings, Rev. Chiplin?

A With an exception of about two I have attended all.

Q Over a 10 or 11 week period?

A This is correct.

Q Have you had occasions to speak at these meetings?

[112] A Every night.

Q Will you tell the court briefly what is the nature of your participation at these meetings?

A Well, the nature of my participation in the meeting is that I feel that there needs to be something done to correct a wrong that has existed in the city over a period of time. I feel that as a minister it is my responsibility to my

fellow man to try to speak to them to this point, to try to convince people that they need to try to stick together now and accomplish these things, accomplish some of their human rights that God has given them.

Q What injustices are you talking about, briefly, that you were addressing yourself to when the group decided to picket, say in March?

A Injustices such as hiring practices, and above all, the fact that the courts had been unfair in many instances. The judge that we have on our —

BY THE COURT:

You mean if they don't decide like you want them to decide, that makes them unfair, does it?

BY THE WITNESS:

Not necessarily the way I want them to decide; I'm thinking in terms of legal aspects, of being, just showing justice, you know. I don't think that some [113] of the decisions rendered have been fair, not just —

BY THE COURT:

Let's get on with your questions, I'm not interested in his philosophy.

BY MR. WINFIELD:

Q Will you tell the court just what, do you recall at any time, had you at any time made any statements that could be drawn to mean that you were intimidating, that intimidation was to be used in the movement?

A No, I have not.

Q What about coercion?

A Not at all.

Q Have you intimidated anyone?

A No, I have not.

Q Have you known of anyone who's intimidated anyone?

A No, I have not.

BY THE COURT:

Have you got any charges pending against you?

BY THE WITNESS:

No, no more than criminal conspiracy.

BY THE COURT:

That's what I mean.

BY THE WITNESS:

Yes.

[114] BY THE COURT:

Criminal conspiracy pending against you?

BY THE WITNESS:

Yes, two charges.

BY MR. WINFIELD:

Q At the time you were arrested, were you pulling anyone out of the stores, were you talking to anyone who might have been buying in the stores?

A No, I was not.

Q Were you in a group at the time you were arrested? Were there more people picketing?

A There were some coming up the street behind me, yes.

Q Were they threatening or pulling anyone out of the stores?

A Not as I know of.

Q If there were reports, you would generally know, is that correct?

A That's right, I would know.

Q Had there been any reports or any information of persons, groceries being strown around, or people being beaten up or threatened in any manner?

A There had been none.

Q Have you attended any meetings, you are a member of the board, is that correct?

A I am a member of the board, secretary to the board.

[115] Q Have you attended any meetings with the city officials or merchants?

A I have attended two meetings.

Q Was the question of criminal conspiracy charges discussed at either of those two meetings?

A At the first meeting it was raised, yes.

Q What was the point there, what was said about that?

BY MR. ELLIS:

We object to that, Your Honor.

BY THE COURT:

Sustained.

BY MR. WINFIELD:

Your Honor, with reverence I'd like to (inaudible). As part of our showing, we intend to show that the charges are no more than harassment, and that the merchants could, but they were using this, the city, the merchants were using this to prevent people from simply picketing. And we would tend to show or argue that the arrests were

no more than harassment, that they were meant never to really carry them out.

BY THE COURT:

I'll let you touch on . . looks to me like you're going into the question of gu.. or innocence. All right.

[116] BY MR. WINFIELD:

Q Were there any question or any statement by a merchant that they could throw out the charges if the boycott would end?

A There was a direct statement made in this first meeting concerning this. The question was raised that if the boycott would be called off, selective buying campaign, was called off —

BY MR. ELLIS:

Your Honor, we continue our objection to —

BY THE COURT:

I don't think that's got anything in the world to do with what's before me. I don't know whether this man is guilty or not guilty, I couldn't make a judgment on that. The question here is whether or not these people, individually or collectively, whether they are guilty of conspiracy in violation of a Mississippi statute.

BY MR. WINFIELD:

Q Mr. Chiplin, have you conspired with anyone, has the board, or the members, conspired to violate any laws of Mississippi; that is, to threaten or coerce to prevent people from doing business by using force or anything of the like?

[117] BY MR. ELLIS:

We object to that, Your Honor.

BY THE COURT:

I'll let him answer.

BY THE WITNESS:

No, I have not.

BY MR. WINFIELD:

Q Have you known of Rev. McBride or any members of the board, or anyone that's a member of Concerned Citizens, advocating that?

A No, I have not.

Q Were you at all times peacefull as far as while you were participating in it?

A At all times.

Q Had you known of anyone not to have been peaceful?

A I had not known of any such cases.

Q Have you heard Rev. McBride mention anything other than nonviolence and peaceful means to support the ultimate objective of Concerned Citizens?

A Never have I heard him say anything like this.

Q As far as you are concerned, is it unlawful now to picket in Vicksburg?

BY MR. ELLIS:

We object to that, Your Honor.

[118] BY MR. WINFIELD:

Your Honor, I think that is what may be heard, I believe that is part of it, that is the question.

BY THE COURT:
I'll let him say.

BY THE WITNESS:
As far as I know we cannot picket in Vicksburg now. It is against, we are arrested when we picket in Vicksburg now, so I would imagine it is against Vicksburg law.

BY MR. WINFIELD:
Q Why did you picket in the first place?
A I picketed because I felt it necessary that members of our race should restrain from trading in certain stores possibly until —
Q Let me interrupt, just tell why you decided to use picketing as a means of showing your grievances.
A Because I feel it's a constitutional right, and as far as I can remember, reading in school books and seeing (inaudible), people have picketed to voice their grievances against certain things. I felt it was my constitutional right and I was proud to wear a picket sign for my convictions.
Q And you thought this was a peaceful say of showing —
A I would not have participated had it not been a [119] peaceful way, I'm a minister.

BY MR. WINFIELD:
No further questions.

CROSS EXAMINATION

BY MR. ELLIS:
Q What is your name again?
A Rev. Charles K. Chiplin.

Q Do you have a brother by the name of James?
A I do.
Q Where is he employed?
A He's employed by the Vicksburg Police Department.
Q How long has he been with the Vicksburg Police Department?
A About six or seven years I imagine.
Q What rank does he hold with the Vicksburg Police Department?
A Just a policeman as far as I know.
Q Was he the one that placed you under arrest on May 2, 1972?
A Yes, he was.
Q That's your brother?
A That's my brother.
Q And he was in his police uniform?
A He was.
Q Is he an Uncle Tom?
[120] A Uncle Tom, no he's not an Uncle Tom.
Q Who are some Uncle Tom's in Vicksburg?
A From my sense of the word Uncle Tom —

BY MR. WINFIELD:
Your Honor, we object to this whole line of questioning. The question is calling for the witness to slander some individual in Vicksburg perhaps to that individual's interpretation. It's unnecessary.

BY THE COURT:
I'll let him answer.

BY THE WITNESS:
Well, it would all depend upon what is meant by Uncle

Tom. I don't have a list of people I call Uncle Tom's. I don't per se — there are people who I don't agree with their ideas at least according to the selective buying campaign — but I haven't labeled them as being Uncle Tom's per se. The word Uncle Tom, as you remember, came from the slavery period, and that had to do with a man who possibly snitched on his race, and I don't know who snitched.

BY MR. ELLIS:

Q You've been to most all of the Concerned Citizens meetings, is that right?

A That is true.

[121] Q And you are secretary of the Concerned Citizens?

A I am secretary.

Q And when the names of Uncle Tom's were being called off in the meetings you were the one taking the names?

A No, I had not taken any names down of Uncle Toms.

Q What is the lady's name who's last name ends with Phelps? What's her first name?

A Mrs. Marcina A. Phelps.

Q Were you present at the meeting during the month of April in which she read off 26 names of Uncle Toms for retaliation by the group in attendance at that meeting?

A I was at a meeting, but I do not recall any such reading.

Q What type of business is your mother in?

A She owns a grocery store.

Q Has her business increased substantially since the boycott was put into effect in March of 1972?

A Somewhat. We've always done very good business

on that corner. It's in the main stream section of town, the black section.

Q As a matter of fact, her business has increased substantially, is that right?

A I wouldn't say substantially, but somewhat increased.

Q Are you aware that within the last ten days that she [122] procured two Small Business Administration loans?

BY MR. WINFIELD:

We object to that, Your Honor, it has no relevance at all to this inquiry.

BY THE COURT:

Sustained.

BY MR. ELLIS:

Q Now, do you know Professor Sturgis?

A Yes, I do.

Q And he's the principal of which school in Vicksburg?

A North Vicksburg High School.

Q Is he a black man?

A Yes, he is.

Q Is he on the Uncle Tom list?

A I don't know of any Uncle Tom list that you would be speaking of.

Q What about his next-door neighbor, Coach Marcum?

A In what respect?

Q Is he on the Uncle Tom list?

A I've never known of an Uncle Tom list, I haven't seen a list of Uncle Toms.

Q Are you aware that his automobile was fire bombed

in front of his home several days after his name was mentioned in Concerned Citizens?

A I was informed that his automobile was burned, the [123] inside was burned.

Q And that was several days after his name was mentioned by someone in the Concerned Citizens?

A I have not heard his name mentioned in a meeting, no more than after his car was burned, we said how terrible it was and encouraged people — not that anyone from our group did so — but encouraged people in general not to use any tactics like that. In fact, I don't feel like it's related to the movement at all, I feel like it's totally disconnected from the movement. He's a coach and he's lost a lot of games this year.

Q Is that why his automobile was burned?

A I don't know, there could be so many reasons.

Q How far is his place of business from your mother's store?

A His place of business?

Q Excuse me, his residence.

A I would say about a good three blocks, two or three blocks.

Q Do you remember the three youngsters that were placed in front of Gibson's Discount Store, or Howard Brothers' Discount Store, by you and a woman who's last name, I believe, is Washington?

A Three youngsters?

[124] Q Yes. Back in the month of April.

A No, I do not remember them.

Q Did you appear in city court when they, when one of the three were charged with obstructing traffic and blocking people from entering Howard Brothers' Discount Store? Were you in the city court when that case came up for trial?

A Yes, I was.

Q You was? And I ask you also, on a Saturday in April, were you and a woman, I believe, by the name of Williams, were out in front of the Jitney-Jungle store in the highway demonstrating and you were arrested for obstructing traffic?

A That day Mrs. Williams and I were picketing.

Q In the highway?

A Not in the highway. When we stepped onto the highway we had on no picket signs, so we were not picketing in the highway.

Q And after you were brought to jail you were released on a $25 bond, is that not right?

A That's true.

Q And the woman also?

A Yes, she was.

Q Then about an hour later you and I believe the woman and about 10 or 12 other people went back with signs [125] and go in the highway picketing and were again arrested by the Highway Patrol.

A We returned to the area and did not get back in the highway and were arrested, yes, sir.

Q And those cases came up for hearing in the justice of the peace court, is that not right?

A We did not actually appear in court, no.

Q Let me ask you this question: did your attorney enter a guilty plea for you on those two occasions, and the woman on the two occasions, and the other two people, to obstructing traffic, and paid a small fine in the justice of the peace court?

A This is true, yes.

Q Now, on the picketing that took place on Mother's Day eve, were you on Washington Street that day?

A Yes, I was.

Q What time did the demonstration take place?

A Between 10:00 and 11:00 that morning, I imagine, the first of such demonstrations.

Q Was it observed by the Police Department?

A Yes, it was.

Q Were there any arrests made right away?

A No, there were not.

Q And the group that was demonstrating on the street, did they leave and stay away for about an hour, hour [126] and a half, and then returned?

A We went for dinner, yes.

Q Went for dinner. And then when you returned, was there a larger number of people with picket signs?

A No, there was not a larger number.

Q Did these pickets take up guards at different businesses and chase black people out of the businesses?

A No, we don't stop in fact, we don't take guards, we don't chase people out of any businesses. We were walking up the street.

Q Do you know Albert Johnson?

A Yes, I do.

Q Have you ever walked the streets with Albert Johnson?

A No, I have not.

Q You have not?

A No.

Q Have you heard of black people complaining about the enforcement tactics advertised by Mayor Evers that was being used by Albert Johnson and others in your group?

A No, I don't, and I don't know of any enforcement tactics used by Mayor Evers.

Q Did you hear the statement that he made on television that the blacks who organized the boycotting had a

right to discipline other blacks who didn't agree [127] with them, and it wasn't anybody else's business?

A I may have been in jail at that time.

BY THE COURT:

Who was sponsoring that program that Mayor Evers appeared on?

BY THE WITNESS:

I don't know, I didn't see the program. As I say, I was in jail as I recall when it came on.

BY MR. ELLIS:

Q Now, Rev. Chiplin, prior to that time had Mayor Evers been to Vicksburg and spoke to yall's meeting?

A He had spoken once, I believe.

Q He had spoken once at the meeting. And others had spoken calling for a boycott and calling people Uncle Toms who didn't agree with you, is that right?

A No, nothing to this effect.

Q Have you ever walked the streets with Rev. Eddie McBride?

A Maybe twice.

Q Did he have the camera with him on either of those occasions?

A No, he didn't.

Q Did he have his binoculars with him?

A No, he didn't. He had a sign on him saying "God is with us."

[128] Q All right, but you never have seen him with the pictures that he's taken of people who were shopping?

A No, I haven't seen any pictures of anyone who was shopping.

Q Do you condone the acts of Rev. McBride as being a

part and partial, a part of what you want to accomplish in carrying out the boycott?

A As far as I know and have observed Rev. McBride, I would say that his actions are in keeping with my (inaudible).

Q So you are saying that you agree with the actions taken by Rev. McBride and Albert Johnson to enforce the boycott?

A As far as, if you have the same reference to actions taken, I mean, the only actions I know are peaceful, and, yes, I agree with those, yes.

Q So what they do is being done with your acquiescence?

A What they are doing, yes.

Q How many people were in the group with you when you were arrested on the day before Mother's Day?

A There may have been about, between 13 and 15, something like this, I'm not sure of the actual number. I understand that there were two groups arrested, and I was in the first group.

Q And they had a big crowd gathered at the intersection [129] where you were arrested?

A They could not help but gather. The police blocked the streets off and caused a big commotion, they had four or five cars there with the lights flashing. The man told me to put my hands up beside the post like I'd killed somebody.

Q Were your people standing out in the streets?

A No, they were not standing in the streets.

Q How many of your people were around?

A The closest person, there were about two people closer to me and there were others back down the street further. We had just left the office and I had crossed the street; in fact, we were not up far enough to have the whole

line of 12 or 13 people fully on the street, so as the others turned the corner they were arrested.

Q Was Albert Johnson in the group?

A I don't recall him being in that group.

Q Who in the group was trying to get the blacks out of the white stores, as you recall?

A No one in the group tried to get anybody out of any stores.

Q What about those pamphlets that yall were passing around that called people Uncle Tom and prepare a list of people that didn't go along with the boycott?

A Pamphlets that called people Uncle Tom?

[130] Q Yes.

A We have had no such pamphlets that call people Uncle Tom.

Q That call people Uncle Toms?

A No such pamphlet that called people by the name Uncle Tom.

Q What I mean were making threats to identify people that they were Uncle Toms.

A That may be possibilities of identifying people as Uncle Toms?

Q Yes.

A I have seen several of those, yes.

Q And when these people's names were being mentioned, it was in connection with them being spotted as shopping in white-owned stores, is that correct?

A I'll go back to say that I have not heard names mentioned. I don't recall names, maybe they were mentioned and I didn't hear them, but I have not heard any names called.

BY MR. ELLIS:

May I have the court's indulgence.

BY THE COURT:
All right.

BY MR. ELLIS:
Q At the meetings of Concerned Citizens, you were the master of ceremonies?
[131] A Yes.
Q Do you recall the Saturday when the courthouse was blocked off and the streets of the courthouse were blocked off so you could hold a meeting there?
A Yes.
Q And this was done after the arrest of May 2?
A Yes, it was.
Q And you were the master of ceremonies at that meeting?
A That's true.
Q And the city afforded you an opportunity to have a meeting on the courthouse steps and to block off the streets so people could attend and listen to what you wanted to say?
A Yes, they did.
Q And the meeting lasted for some several hours, is that not right?
A Yes, it did.
Q And Rev. McBride and others spoke there, is that not right?
A This is right.

BY MR. ELLIS:
That's all.

BY THE COURT:
Anything further?

[132] BY MR. WINFIELD:
Nothing further.

(Witness Excused)

BY MR. WINFIELD:
Your Honor, that concludes all the witnesses we have had come over here, and we feel that we have substantially, we have put on —

BY THE COURT:
You're satisfied with it?

BY MR. ALEXANDER:
Yes, Your Honor, except for oral argument.

BY THE COURT:
That's right, I understand that. Let's take a ten minute recess.

(Court recessed at 3:25 P.M. for ten minutes, after which the hearing of this cause was then resumed.)

BY MR. ELLIS:
We call Chief Brown.

MARION R. BROWN,
called as a witness for and on behalf of Defendant, was sworn and testified as follows:

DIRECT EXAMINATION

BY MR. ELLIS:
Q Would you state your name for the court?

A Marion R. Brown.

Q And do you hold a position with the city of Vicksburg?

[133] A I do, sir.

Q What position?

A Chief of Police.

Q How long have you been with the Vicksburg Police Department?

A A little over 18 years.

Q How long have you filled the capacity as Chief of Police?

A A little over four years.

Q Are you presently the Chief of Police?

A I am, sir.

Q And have been particularly during the months of March, April and May 1972?

A Yes, sir.

Q Chief Brown, I ask you to direct your attention to the arrests made on May 2, 1972. Were they made on affidavits filed with the Police Department?

A They were, sir.

Q And were they based on investigation of the Police Department?

A They were.

Q Charging conspiracy and restraining trade.

A Right.

Q And particularly the witness by the name of John E. Ferguson, 30 year old black male. Was he arrested [134] on that day?

A He was, sir.

Q And that was the only time that he had been arrested?

A Yes, sir.

Q And the witness, Eddie Thomas, has he ever been placed under arrest?

A No, sir.

Q Now, as to Albert Johnson on the charges of intimidating the complainant James Sturgis, how was that matter brought to the attention of the Police Department?

A The matter was brought by a complaint from Mr. Sturgis that he had been threatened and intimidated by Mr. Johnson at the Humpty-Dumpty grocery store on this particular date.

Q Now for the benefit of the record, Mr. Sturgis is the black principal of one of the high school in the city of Vicksburg?

A North Vicksburg High School.

Q Did it involve threats on account of him shopping at the Humpty-Dumpty or a white business establishment in the city of Vicksburg?

A It did, sir.

Q And were charges brought based on this complaint in the county court of Warren County, Mississippi?

A Yes, sir.

[135] Q Was Albert Johnson brought on for trial with a jury sitting in the courtroom waiting to be selected to stand trial on the charges brought through the complaints of Mr. Sturgis?

A Yes, sir.

BY MR. WINFIELD:

Your Honor, we would like to object to the line of questioning, it deals with activities that the Chief did not personally observe. The question of whether or not the Chief personally observed what he's testifying to; was he present to see a jury?

BY THE COURT:

Well he's sworn to tell the truth, the whole truth, and nothing but the truth of his own knowledge. I overrule the objection.

BY MR. ELLIS:

Q Was the trial of Albert Johnson on the charges against, or rather, brought on the complaint of Pro. Sturgis stopped before they were able to commence?

A Yes, sir.

Q And was that on account of notification of a legal petition that had been filed in the federal district court?

A Yes, sir.

Q Chief Brown, I direct your attention to approximately [136] a week or ten days after the arrest on May 2, 1972. Did the Concerned Citizens or any of the group request permission from you as Chief of Police for use of the facilities of the courthouse and to block off the street area for the purpose of holding a public meeting?

A They did, sir.

Q Was permission granted?

A It was.

Q Were the streets blocked off pursuant to their request by the Police Department?

A Yes, sir.

Q Was the meeting conducted on the front steps of the courthouse?

A Yes, sir.

Q Was it attended by a number of people?

A Yes, sir.

Q Would you estimate the size of the crowd.

A I'd say around 800 people.

Q Was the Rev. Charles Chiplin a moderator or speaker at that meeting?

A He was.

Q Was defendant Eddie McBride, Rev. Eddie McBride, a speaker at that meeting?

A He did, sir.

Q Was that meeting conducted within hearing distance [137] of the law enforcement officers?

A Yes, sir.

Q Were promises made to continue the restraint of trade and to retaliate against blacks who were violating the boycott?

A They were.

BY THE COURT:

Let me get that question again.

BY MR. ELLIS:

I asked him at that meeting were remarks made by the speakers to continue the boycott in restraint of trade and to retaliate and take notice against those blacks who did not go along with the boycott.

Q And what was your answer to the question, please?

A They were.

Q Now, Chief, approximately one week after that mass meeting that was conducted on the steps of the courthouse and in the street to the courthouse, was picketing resumed on Washington Street?

A It was, sir.

Q When did you first notice the picketing activity on this particular Saturday, which I believe was the day before Mother's Day?

A At approximately 11:00 A.M. Saturday morning.

Q And did you personally go down at that time to observe [138] the nature in which the picketing was being conducted?

A I did, sir.

Q At that time did you find the picketing being conducted peacefully and without any violence or intimidating anyone?

A It was, sir.

Q At that time did you find that it was not interfering with the rights of any people to go in and out of the stores?

A They weren't interfering with people going in, the only interference that I saw at all this particular morning was they caused the sidewalk to be somewhat congested; but I didn't say anything to them or none of my men, we let them continue. They kept moving and they walked from one end of the street to the other several times, about 35 people.

Q Now after they had made the demonstration by walking the length of the business district of Washington Street from one end to the other, did the group then disburse?

A Yes, sir.

Q Did you notice any violations of the law in the way they conducted the picketing at that time between 11:00 and 11:30 or however long it was that they first began to picket?

[139] A No, sir.

Q Were any arrests made from the original picketing?

A No, sir.

Q How much later that day was it that you received, or did you receive any complaints later that day in regards to activities being carried on by certain people in furtherance of the boycott?

A I did receive some complaints.

Q And what were the nature of the complaints received?

A That the picketers were interfering with people try-

ing to go into stores, that they had actually gone into stores, some of them had, and told people in the presence of the owner that they weren't suppose to be in the store shopping.

BY MR. WINFIELD:

Your Honor, we are going to have to object to that testimony, because we will admit that can testify that he received a complaint, but I feel that the witness is going beyond what he actually observed or what knowledge he received.

BY THE COURT:

You can tell only what you know of your own knowledge, Chief.

BY THE WITNESS:

Yes, sir.

[140] BY MR. ELLIS:

Q Now, Chief, did you receive complaints from people concerning the activities that took place later that afternoon by the boycotters?

A Yes, sir.

Q And did this lead to an investigation of this activity by the Vicksburg Police Department?

A Right.

BY MR. WINFIELD:

Your Honor, at this time I'd like to interpose another objection. It appears that counsel is leading.

BY THE COURT:

Yes, don't lead him. Is it against the law to peacefully picket in Vicksburg?

BY THE WITNESS:

No, sir.

BY MR. ELLIS:

Q About what time of the day was it that the Police Department commenced an investigation to see what nature the picketing was taking?

A It was I believe just a little after 1:00 that afternoon.

Q Now, Chief Brown, was an observation made by the Vicksburg Police Department of the conduct of the [141] picketers prior to arrest?

A Yes, sir.

Q And what were they doing?

A They were stopping people, talking to them; they were blocking some entrances to the stores. I personally saw them follow people back to their cars, write their tag numbers down. I personally saw them even go as far as to reach out and stop people, and I heard several —

BY THE COURT:

Reach out and do what?

BY THE WITNESS:

Stop people, just reach out and stop a person that would have a package in his hand. I heard Albert Johnson, I heard James Chiplin, and several others, Victor Parsons, tell people that they were not suppose to be downtown shopping that there was a boycott on.

BY MR. ELLIS:

Q Now, Chief, prior to the arrest being made, were warnings given to quit interfering with people?

A They were, sir.

Q Did they cease interfering with people from going into the stores?

A They did for about 25 or 30 minutes. They left and [142] went back up on Grove Street to 717 Grove Street, which was the office of the Concerned Citizens. Then in about 25 or 30 minutes they came back on the street and started again, then that's when they were arrested.

Q You say they started again, were they interfering with the people at the time they were arrested?

A They were, sir.

Q Chief, I show you here an item that's been marked for identification purpose #1, do you recognize it?

A Yes, sir.

Q What is it?

A That's a list of demands, I believe this is the first list that I originally saw; I believe this was the day before the boycott actually started, I believe the boycott started March 24.

Q Are any of the complaints made on there directed to any merchant in the city of Vicksburg?

A I don't believe so.

Q And, Chief, I ask you, did the boycott start the day after receipt of that notice from, by the Chamber of Commerce from the Concerned Citizens?

A Yes, sir.

BY MR. ELLIS:

Your Honor, we offer this as an exhibit to the Chief's testimony.

[143] (Document previously received for identification now received in evidence, and bears Defendant's Exhibit #1 as so labeled.)

BY MR. ELLIS:

Q Now, Chief, I show you another item. Do you recognize it?

A Yes, sir.

Q And what is it?

A Uh —

Q Let me ask you this way: who's leaflet or pamphlet is it?

A This leaflet was being handed out by members of the Concerned Citizens on the streets of Vicksburg.

Q Do they mention Uncle Tom in that list?

A Yes, sir.

Q What mention do they make of Uncle Toms in that list?

A It says: And still there are some Uncle Toms among us. There are some black people right here in the city who have decided to remain on the bottom. You need not smile because it is not comical, rather it's sad. The selective buying campaign is still on. Keep your money in your pocket, we are going to begin publishing a list of Uncle Toms. See to it that your name does not make our list.

Q Chief, that was the pamphlet or leaflet circulated [144] by the Concerned Citizens?

A Yes, sir.

BY MR. ELLIS:

We offer this as an exhibit to the Chief's testimony.

BY THE COURT:

It may be entered and be marked.

(Received in evidence and marked Defendant's Exhibit #2.)

BY MR. ELLIS:

Q Chief, had you received reports from any black citizens in the city of Vicksburg in regards to terrorisms or brutalities being practiced upon them because they did not agree with the boycott?

A Yes, sir.

Q Were there any bricks being thrown in the windows at night?

A Yes, sir.

Q Now, I ask you to direct your attention to a case in which one of the Concerned Citizens filed an affidavit against a black policeman in the city of Vicksburg, and when that case came up for trial did several black women testify on behalf of the black police officer in the city court?

A They did, sir.

BY MR. WINFIELD:

Your Honor, we would like to state an objection to [145] this line of questioning. It is irrelevant to the question involved.

BY THE COURT:

What is the relevance?

BY MR. ELLIS:

We're going to show that these people had tried to go into a wrestling match in the city of Vicksburg and were being stopped from going into it, and they were testifying in court about it that they received bricks being thrown in their windows during the dead of the night.

BY THE COURT:
I don't believe that's relevant to what we're trying here. These people are not charged are they?

BY MR. ELLIS:
Not charged, no, sir.

BY THE COURT:
All right, sustain the objection.

BY MR. ELLIS:
Q Now, Chief, I ask you this: at the time that the picketing started on Mother's Day eve, that was done under observation by the Vicksburg Police Department?
A Yes, sir.
Q And I believe you stated, I want to make sure of this, that at the first 45 minutes or an hour before [146] the picketers disbursed, there were no arrests made, is that correct?
A Yes, that's correct.
Q And why were there no arrests made during the first hour of picketing?
A They didn't interfere with anybody or violate any law that I know of.
Q Chief, you stated that several hours later that groups of these people and others reappeared on the streets in Vicksburg.
A Right.
Q Why were they arrested?
A They were interfering with people, they were down —

BY MR. WINFIELD:
Your Honor, if we may, it appears that on direct here counsel is repeating himself.

BY THE COURT:
Speak up.

BY MR. WINFIELD:
It appears that counsel is being redundant in his questioning, he's already asked that question several times.

BY THE COURT:
I'm not aware of it; overruled; go along.

[147] BY MR. ELLIS:
Q Chief, on the second occasion, which was after an hour and a half or two hours from the first demonstrations that were being conducted on the business district, why were they arrested the second time?
A They were interfering with people that were attempting to trade in the downtown stores in Vicksburg. They were stopping people; I got complaints from people on being threatened.
Q In other words, they were violating the laws and they were arrested, Chief?
A Right.

BY MR. ELLIS:
May we have the court's indulgence. We tenure the witness, Your Honor.

BY THE COURT:
All right.

BY MR. WINFIELD:

Q Chief Brown, on direct examination you testified you had been on the police force over 18 years, is that correct, sir?

A Right, sir.

Q And you have been Chief more than four years.

A Right, sir.

[148] Q Have you been involved in mass arrests before?

A No, sir, not mass arrests.

Q Let me direct your attention to your testimony with reference to the May 13 arrests. Did you not testify that there were complaints?

A There were, sir.

Q What were the complaints?

A I received several calls from merchants that the pickets were interfering with people trying to trade in their stores.

Q What do you think is the object of the pickets, sir?

A What is the object of the pickets?

BY MR. ELLIS:

We object to that, Your Honor.

BY THE COURT:

I'll let him answer. Go ahead, sir.

BY THE WITNESS:

The object of the pickets has been different on certain occasions. Certain occasions they have been peaceful, then there have been other occasions, Your Honor, that they haven't been peaceful. Their object as they have so

stated publically is a boycott against the white merchants in the city of Vicksburg.

BY MR. WINFIELD:

Q Chief Brown, have you had a complaint against a [149] Mrs. Fannie Brown?

A Mrs. Fannie Brown? I don't recall having a personal complaint against her, no, sir.

Q Do you understand the charges that have been placed against these people — criminal conspiracy, that is?

A Yes, sir.

Q You understand that that's a serious charge?

A Yes, sir.

Q Now can you tell the court who actually made those affidavits out?

A Who actually made the affidavits?

Q Who went before the justice of the peace or the judge?

BY MR. ELLIS:

Your Honor, we object to that; the affidavits speak for themselves.

BY THE COURT:

I'll let him answer that. I don't know why they haven't been offered in evidence. I'll let him answer that.

BY THE WITNESS:

I personally, with the help of the county attorney and the district attorney, helped prepare the affidavits.

BY MR. WINFIELD:

Q On the case of Fannie Brown, did you go before the [150] justice of the peace?

A Mr. Winfield, there were quite a number of people named in each affidavit; I don't recall which one Mrs. Brown is actually named in. But I went before on all affidavits.

Q And the charge of conspiracy against Bennie Young, did you go before the justice of the peace, and what was your complaint, who was your complaint?

A All of the people so charged in these affidavits, Mr. Winfield, were involved, that were arrested, were involved in this particular incident down on the streets of the city of Vicksburg in the particular date they are named in the affidavits.

Q My question is: what was their involvement, that is the question.

A What was their involvement? I didn't personally observe —

BY MR. ELLIS:

We object if Your Honor please, that's going into the guilt or innocence.

BY THE COURT:

I sustain the objection.

BY MR. WINFIELD:

Your Honor, we would intend to show that at the time of the, the question is directed to just what were [151] they, that they were actually picketing, that they were doing no more than picketing.

BY THE COURT:

I'm not interested in the affidavits, whether they are guilty or not guilty or what's charged in the affidavits; but you can show what they were doing if he remembers.

Counsel, you may be seated, I don't let but one counsel conduct a trial.

BY MR. WINFIELD:

Q Can you tell the court what activity any of the petitioners were engaged in at the time they were arrested — May 2, May 13, May 14?

A What were they doing when they were arrested? Is that the question?

Q Right, sir.

A They were downtown interfering with people as I so stated before. I actually observed these people before any arrests were made on this particular date of the 13th. Stopping people, writing down tag numbers. In general, harassing people who were down there trying to trade.

Q Chief Brown, who did you see write down tag numbers?

A I saw Rev. Chiplin, Victor Parsons, and I don't know all of them personally, but I —

Q All of them were walking around with signs writing —

[152] BY THE COURT:

Let him finish his answer.

BY THE WITNESS:

It was during, since the boycott started. I have observed many of the picketers take their placards that they had tied around their necks, just take a pin and walk up, follow people to their automobiles, and write their tag number down on the placard.

BY MR. WINFIELD:

Q Was that a violent act?

A Well —

BY THE COURT:

You don't need to argue too much about that, I have my own ideas about that. Don't kid yourself up here, because you ain't fooling me a bit. Go along.

BY MR. WINFIELD:

Q Chief Brown, is that unlawful? What is your understanding?

A Mr. Winfield, when, I can only answer you this way: I have received numerous complaints from black people, some I know and some I don't know, that have been followed back to their automobiles, their tag number written down, that have reported to me that since this has happened they have been called at their homes all hours of the night and threatened, and told what [153] was going to happen to them if they didn't stop shopping in downtown Vicksburg with white merchants in the city of Vicksburg. That's the only answer I can give you to it.

Q My question would be this then, Chief Brown, do you have any information as to particularly the petitioners that are charged committing any of the acts, if in fact these acts occurred?

A No, I don't know. The only complaint I actually have where a person actually identified themselves, so the complainant told me he identified himself. Mr. Jeff Prentiss said that the Rev. McBride had called him several times and wanted him to come before, come to the meeting before the people at the meeting, so he could straighten him out. Mr. Prentiss' statement to me was that what brought this on was he spoke against Mr. McBride in his church which he's senior deacon in his church, and he spoke against him using the church for this purpose. He said that he had had 25 to 30 phone calls of threats and then that the Rev. McBride did identify

himself and wanted him to come to the meeting so he could straighten him out.

Q Did you accept that as being a threat, or did it appear to what he said that that was a threat when he asked him to come before the mass meeting to discuss [154] the matter of what have you?

A I don't know what he intended to do at this meeting unless it was to intimidate the man, get him before a crowd of people.

Q Was that particular incident used as part of your information that you drew up that you took to the justice, police justice?

A Not on that particular date, no, sir.

BY THE COURT:

Chief, did you have anything to do with the arrest of Johnny James Ferguson?

BY THE WITNESS:

Johnny James Ferguson. I didn't actually participate in any of the arrests, Your Honor.

BY THE COURT:

He's in some kind of entertainment business over in Vicksburg.

BY THE WITNESS:

He's manager of Great Southern Productions.

BY THE COURT:

Something like that.

BY THE WITNESS:

Yes, sir.

BY THE COURT:

Do you know what he was arrested for and accused with?

[155] BY THE WITNESS:

He was arrested, I believe, on May 2, with the first group that was arrested. He has actually participated in the boycott, and in fact, at the beginning he was very actively participating in it.

BY THE COURT:

He said he was at home when he was arrested.

BY THE WITNESS:

Yes, sir. Some of the first arrests, they were not all on the street. We had made this affidavit of, I believe, 16 or 17 people that were actively leading and doing most of the intimidating and so forth. The date we made the arrests it was raining, some of them were on the street, some of them were not.

BY THE COURT:

All right.

BY MR. WINFIELD:

Q Do you not know of any intimidation that Mr. Ferguson —

A The only thing I've seen him, I've seen him actually carry a picket sign, I've seen him stopping people on the street and talking to them.

Q Was that unlawful?

A No, there's nothing unlawful about stopping a person and talking.

Q You were the person, you made out the affidavits on those original 16, is that correct?

[156] A Right.

Q Chief Brown, do you know a David McFelton? Do you know of David McFelton?

A I know of a McFelton.

Q Do you know the lady that works in the city jail by the name of McFelton, she cooks?

A I know the cook, yes sir.

Q Do you understand that Mr. McFelton is a petitioner in this case?

A I do, sir.

Q Have you ever arrested Mr. McFelton?

A I have not.

Q Has the sheriff arrested Mr. McFelton?

A No, sir.

Q Do you understand why there are criminal conspiracy charges against him?

A I know that Mr. McFelton at one time was very actively participating in the boycott, was taking a very active part in it, but I have not seen Mr. McFelton since the first arrests were made. There were also others named in that first affidavit that disappeared the day those arrests were made and did not reappear on the streets or take another part in this boycott until the second group of arrests were made.

Q Are you saying then that the fact that they did not [157] reappear on the streets was the reason why they were not arrested?

A I did not go out and spend a lot of time, our time was quite consumed in this matter. I did not go out and make a lot of special effort to find these people after they disappeared. The sheriff did go to his house in Ford Subdivision, that's north, he lived out of the city limits in Vicks-

burg, on several occasions and they never did find him at home.

Q Do you recall a Mr. Willie Green, charges made against Mr. Willie Green?

A Yes, sir.

Q Do you know where he lives?

A He lives within the city somewhere, I believe.

Q Has he been arrested since May 2?

A No, sir.

Q Has he been back on the streets?

A I have not seen him.

Q Is it not a fact that all persons who have been on the streets since May 2 with picket signs, with the exception of that short march on May 13, have been arrested?

A No, actually there were some left down there on May 13 earlier that I don't believe were arrested.

Q Did they have picket signs?

[158] A They removed their picket signs and left.

Q So the reason why they were arrested was because they had their picket signs on them?

A No, the reason why they were arrested, Mr. Winfield, was that they were interfering with the people downtown.

Q Chief Brown, have you met with any merchants prior to the arrests on May 2 to discuss this matter?

A I have attended quite a few meetings, Mr. Winfield.

Q Did yall discuss ways and means of ending this boycott or selective buying campaign?

A There were quite a few discussions on how to talk with these people and reason with them. I understand, I haven't been in any meetings with the Concerned Citizens myself, but I know that there were some meetings.

Q I mean in reference to the meetings that the merchants had, that you attended with the merchants.

A I attended some, yes, sir.

Q That was prior to the May 2 arrests?

A Yes, sir.

Q What was the decision there?

A What was the decision of which, Mr. Winfield?

Q What was the decision to deal —

BY MR. ELLIS:

We object to that, Your Honor.

[159] BY THE COURT:

I'll let him answer that.

BY MR. ELLIS:

Q What was the decision as means of dealing with — (pause) Did you understand my question, sir?

A Sir?

Q What was the decision made there as how to deal with the boycott?

A Actually the merchants didn't make any decisions on what was to be done; they certainly were discussed, but the final decision, after about five weeks that this boycott had actually gone on, was made by myself, the district attorney, and the county attorney.

Q Chief, when a crime, when a normal crime, of say; shop lifting, murder, or the like, is committed, do you meet with merchants before you make arrests?

A No, sir.

BY MR. ELLIS:

We object to that, Your Honor.

BY THE COURT:
Sustained.

BY MR. WINFIELD:
Excuse me just a moment.

BY THE COURT:
Let me ask you this, Chief, if these colored people [160] are unhappy about something and they want to picket on Washington Street, I believe that's the main thoroughfare, isn't it?

BY THE WITNESS:
Yes, sir.

BY THE COURT:
And carry pickets or banners, or whatever you want to call them, and march say, a couple of feet, on the sidewalk and not interfer with the traffic, pedestrian traffic, or not make a nuisance of themselves by any improper remarks to people, and not interfer with people that are going in or coming out of the stores, would the city of Vicksburg be offended by such conduct, or would it seek to arrest them?

BY THE WITNESS:
No, sir, I wouldn't arrest them as long as they conducted themselves in a proper manner, Your Honor.

BY THE COURT:
Does the city of Vicksburg really, or honestly, and sincerely intend to prosecute these cases, or were they filed here just for intimidation and harassment?

BEST COPY AVAILABLE

BY THE WITNESS:
We intend to prosecute them, Your Honor.

BY THE COURT:
So there's a good faith effort on your part?

[161] BY THE WITNESS:
Yes, sir.

BY THE COURT:
Do you honestly feel like that they have violated some law and you feel like they should be vindicated?

BY THE WITNESS:
Right.

BY THE COURT:
All right.

BY MR. WINFIELD:
Q Chief Brown, again I ask, what was your personal observation on May 14 when the arrests occurred?
A Mr. Winfield, I was at home when the arrests were made May 14.
Q What charges were levied then?
A Same charges.
Q And what was that charge?
A Criminal conspiracy.
Q What was that based, was that based on a warranty?
A There were no warranties at the time they were arrested, sir.
Q What basis did you make the arrests?
A I did not make the arrests.

Q As far as you know as Chief of Police, on what basis were the arrests made?

[162] A The same basis that the others were arrested on. They were doing the same things in front of several different stores that were opened Sunday.

Q Each person arrested was committing what act?

A It was criminal conspiracy, sir.

Q I mean, what act?

A They were stopping, preventing people from going in and shopping at these stores.

Q By having their picket sign on, sir?

A Not just for having the picket signs on, they were stopping people as I have stated before. Capt. Baker, Capt. Cochran (sic), and Sgt. Hearn actually made the arrests on the 14th.

Q How many charges of criminal conspiracy do you have?

A I don't know the exact number.

Q Do you know whether or not there have been any preliminary hearings on these matters?

A No, sir.

BY MR. WINFIELD:

That's all our questions.

BY THE COURT:

I've been very much interested in some or, some of the witnesses here who have said they didn't have any particular objection to some of the merchants, it was all of them in particular. I was thinking [163] about that in terms of it being a crime, a common law to conduct a secondary boycott. I was in a case like that one time, and I'm interested in that phase of it, whether or not; their testimony, some of these witnesses, that they don't just

put themselves right squarely in the teeth of the common law on the subject of secondary boycott by what they said. I just throw that out for counsel.

BY MR. WINFIELD:

Well, Your Honor, we are of the opinion there are a whole line of cases in this Fifth Circuit, particularly the case of Dorcy V. State, the case of, there are several open cases in this district who cited the question of the right to march, picket, what have you, that would not preclude the question of secondary boycott. That these persons were there engaged in their civil rights activities along with their, those other requirements of violating the law, intimidation, and what have you.

BY THE COURT:

There's no question in the world about a person having the right to peacefully picket, but I'm not thinking about that. I'm thinking about whether or not these people have got a right to engage in activities in furtherance of their peaceful picketing and by way [164] of intimidation of customers who violate their instructions which these leaders give at these churches. They have a meeting in churches and go right on the street and engage in violence.

BY MR. WINFIELD:

Well, Your Honor, it is our opinion that no such intimidations or coercion have taken place at all.

BY THE COURT:

Well, I mean that's what the testimonies to that point and is susceptible of construction at this point.

BY MR. WINFIELD:

Q I believe I asked you the question, Chief, were you present on the 14th during the arrests and you stated that you were not.

A No, I was not.

Q But you did sign the affidavits in those?

A Yes, sir.

Q Were you personally present on the 13th?

A I was.

Q The arrest of Rev. McBride?

A I was not when the arrest actually took place, I was at the police station.

BY THE COURT:

Is Rev. McBride a petitioner here?

[165] BY THE WITNESS:

Yes, sir.

BY MR. WINFIELD:

Q Were you there when Tom Whitaker was arrested?

A I was at the police station when all the arrests were made, except on the 14th, and I was home.

BY MR. WINFIELD:

No further questions.

BY MR. ELLIS:

No further questions.

(Witness Excused)

BY MR. ELLIS:

The State rests, Your Honor.

TRIAL EXHIBIT D-1

March 23, 1972

Vicksburg Chamber of Commerce
Vicksburg, Mississippi 39180

To Whom It May Concern:

In response to the invitation to the Executive Committee of Concerned Citizens of Vicksburg to attend a meeting of the Vicksburg Chamber of Commerce, we respectfully decline all such invitations until the following demands are met:

1. Dismissal of Judge Oscar LaBarre

2. Demotion of Captain Coulter

3. Impeachment of John Ellis — District Attorney

4. Discharge of the two (one) white policemen who were responsible for the beating of Mr. Neal Antoine

5. Hiring 40% Blacks in City Government jobs at all levels

6. Hiring at least two Black reporters for the city newspaper.

7. Hiring 40% Blacks on Urban Renewal staff at all levels

8. Restore the name of all previous Black schools

9. Enforcement of present housing code in the city

10. Creation of a civilian police review board

11. End all police harrassment of Black people

12. The immediate release of Lamar Burk and the two juveniles who were arrested on March 23, 1972

Black Concerned Citizens of Vicksburg

The Opinion of the District Court is omitted in this Appendix. The opinion of the District Court is reproduced in the Appendix to the printed Petition for Certiorari, Appendix D, pp. 15a-25a.

[55] ORDER TO REMAND

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION

(Number and Title Omitted)

Filed: Jan. 4, 1973

The above cause having been removed to this Court and respondents having made and filed in this Court a Motion to have the cause remanded and the Court having heard and considered testimony and evidence offered, it is ORDERED by the Court, that the case of Albert Johnson be remanded to the County Court of Warren County, Mississippi and all other cases included in the Removal Petition be remanded to the Municipal Court of Vicksburg, Mississippi, from which they were removed by the Petition for Removal filed herewith, upon the ground that said cause was removed improvidently and without jurisdiction; and it is further ORDERED that the Clerk of this Court furnish the Clerk of said State Courts with an attested or certified copy of this Order. Petitioners are hereby assessed with all costs of this proceeding to be taxed by the Clerk of this Court according to law.

ORDERED this 4th day of January, 1973.

/s/ WILLIAM HAROLD COX
UNITED STATES
DISTRICT JUDGE

October 31, 1973

Honorable Edward Wadsworth, Clerk
United States Court of Appeals
for the Fifth Circuit
600 Camp Street
New Orleans, Louisiana 70130

Re: Albert Johnson, et al
v.
State of Mississippi
No. 73-1476

Dear Mr. Wadsworth:

During oral argument in the above-styled cause on October 29, 1973, the Court, speaking through Judge Godbold, directed counsel for the respondents to obtain certain supplemental information regarding the status of the petitioners in the state courts of Mississippi.

Enclosed you will find in letter form, as directed, the information requested by the Court which is signed by those individuals who have the authority to speak in such matters.

If we can be of any further assistance to the Court, please let us know.

Sincerely yours,

EDNjr:bs
Enclosure
cc: Frank Parker, Esq.

Ed Davis Noble, Jr.
Special Assistant
Attorney General

OFFICE OF THE DISTRICT ATTORNEY
Ninth Circuit Court District
[EMBLEM]
P.O. Box 628
Vicksburg, Mississippi 39180

October 30, 1973

Hon. David W. Dyer
Circuit Judge
United States Court of Appeals
for the Fifth Circuit
600 Camp Street
New Orleans, Louisiana

Hon. John C. Godbold
Circuit Judge
United States Court of Appeals
for the Fifth Circuit
600 Camp Street
New Orleans, Louisiana

Hon. Thomas G. Gee
Circuit Judge
United States Court of Appeals
for the Fifth Circuit
600 Camp Street
New Orleans, Louisiana

Re: Albert Johnson, et al
vs.
State of Mississippi
Case No. 73-1476

Dear Judges Dyer, Godbold and Gee:

Pursuant to the direction of the bench during oral argument in the above styled cause as District Attorney for the Ninth Circuit Court District of the State of Mississippi which includes Warren County the following information is herewith submitted regarding the individuals charged on May 2, 1972 and May 13 and 14, 1972 who were the subject of the removal action in Johnson, et al vs. State of Mississippi.

The March 1973 Grand Jury convened on March 12 and during this regular session of the Grand Jury considered the matters of the 49 individuals charged on certain Affidavits regarding alleged violations of Section 2056; 2059.1; 2059.2; and 2059.3 of the Mississippi Code of 1942 as amended (Supplement 1972). The Grand Jury while in session "no billed" the cases against the following individuals:

Maude Winfield; David McPhelp; Robert Whittaker Lee; Michael Sims; Terry Robinson; Robert Whittaker, John Dillard; Betty Washington; Katie Mae Clark Lawrence; Connie Williams; Willie Green; Victor Parson; Bennie Young; Ben Perkins; Daniel Walton; Wallace Williams; Mary Helen Lee; Fannie Brown; Mildred C. Cosey; Albert Ross; Alora Larkins; William Rooks; Joseph Wright; Mattie Mae Jones; Louise Thomas; Rosa Lee Shields; Mary F. Robb; J. B. Edwards, Jr.; Ray M. Cosby; Larry Sims; Bertha Williams; Dellora Bosly; Willie Mae Ferguson; Frankie Young; Rudy L. Smith; Jennette Canda; Willie Mae Jones; Abraham Green, Jr.; Robert

Johnson; Tommy Whitaker; Johnnie Williams; Rufus Price; and Jessie Mae Green.

At the same session of the March 1973 Grand Jury a true bill of indictment was returned against Albert Johnson; Eddie McBride; John Ferguson; Charles Chiplin; Issac Rembert and James Odell Dixon.

The 43 individuals whose cases were "no billed" by the March Grand Jury have been concluded and it is the intention of the Office of District Attorney and the Warren County Prosecuting Attorney not to further proceed against these individuals at a future date regarding the charges brought before the March 1973 Grand Jury which resulted in the no bill. These 43 individuals and the sureties on their appearance bond have been relieved of any further liability thereon by virtue of the action taken by the March 1973 Grand Jury.

With regards to the remaining six individuals who were indicted by the March 1973 Grand Jury it is of course our intention in all good faith to continue the prosecution of that indictment to the extent afforded by the statutes of the State of Mississippi.

Very Truly Yours,
/s/ JOHN E. ELLIS
DISTRICT ATTORNEY
/s/ GEO. CHANEY
COUNTY ATTORNEY

STATE OF MISSISSIPPI
WARREN COUNTY

CIRCUIT COURT March
TERM, 1973

The Grand Jurors of the State of Mississippi, elected, summoned, empaneled, sworn and charged to inquire in and for the body of Warren County, State of Mississippi, at the term aforesaid, in the name and by the authority of the State of Mississippi, upon their oaths present that Albert Johnson, Eddie McBride, John Ferguson, Charles Chiplin, Issac Rembert and James Odell Dixon, late of the County aforesaid, on or before the 12th day of March, A.D., 1973 with force and arms, in the County aforesaid, and within the jurisdiction of this Court did then and there with the felonious intent on their part and each of them with the other to promote, encourage and enforce an unlawful boycott of business establishments in the City of Vicksburg, did knowing, wilfully, unlawfully and feloniously conspire, confederate, agree, combine and scheme among themselves and each with the other, to unlawfully and feloniously prevent black persons from trading or doing business with merchants of the City of Vicksburg, to-wit: all merchants of the white race and business establishments owned or operated by persons of the white race, and among said merchants being Whitney Stores, Inc. doing business as Graysons; United Dollar Store, Inc.; F. W. Woolworth Co. and A & P Tea Co. #125 and divers other merchants of the white or caucasian race in said city which said conspiracy was formed and effecutuated because of alleged grievances of said conspirators over which the merchants and places of business was directed had no direct control or legal authority

to correc', said alleged grievances being, dismissal of the City Judge demotion of Captain Coulter, impeachment of the District Attorney, discharge of the two policemen who were responsible for the beating of Mr. Neal Antoine; hiring 40% Blacks in City Government jobs at all levels; hiring at least two Black reporters for the city newspapers; hiring 40% Blacks on Urban Renewal staff at all levels; restore the name of all previous Black schools; enforcement of present housing code in the city; creation of a civilian police review board; end all police harrassment of Black people; the immediate release of Lamont Burk and the two juveniles who were arrested on March 23, 1972, Contrary to the statute in such cases made and provided, and against the peace and dignity of the State of Mississippi.

/s/ JOHN E. ELLIS
District Attorney

The opinion of the Court of Appeals and the order of the Court of Appeals denying the petition for rehearing en banc and the dissenting opinion are omitted from this Appendix. They are reproduced in the Appendix to the printed Petition for Certiorari, Appendices A and B, pp. 1a-13a. The judgment of the Court of Appeals appears at Appendix C of the printed Petition, p. 14a.